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### Appendix A

Related Town By-Laws: Enforcement of BOH Regulations by Non-Criminal Citation

**BOARD OF HEALTH MEMBERS**

|                                   | <u><b>Term Expires</b></u> |
|-----------------------------------|----------------------------|
| Edmund J. Kowalski, R. Ph.        | January 1, 2020            |
| Thomas McLaughlin, M.D., Chairman | January 1, 2019            |
| Dutrochet Djoko                   | January 1, 2021            |

**LEGAL NOTICE**  
**Danvers Board of Health**

**EFFECTIVE JANUARY 2011**

EFFECTIVE NOVEMBER 3, 2017

\*Late Fee of \$35.00 for all Permits

|  |                                  |
|--|----------------------------------|
| Foodservice (by Risk Category)                       |                                  |
| Category 1 (retail-no processing)                    | \$125.00                         |
| Category 2 (limited processing)                      | \$150.00                         |
| Category 3 (full service restaurant)                 | \$175.00                         |
| Category 4 (HSP – nursing home)                      | \$225.00                         |
| Category 5 (HACCP facilities)                        | \$225.00                         |
| Temporary Food Establishment (not to exceed 14 days) | \$35.00                          |
| Tobacco  | \$ 50.00                         |
| Tanning Facility                                     | \$200.00                         |
| Swimming Pool  | \$225.00                         |
| Motel/Trailer Park/Rec Camp (MGL 140 §32B)           | \$50.00                          |
| Application for Garbage, Offal, Septage Hauler       | \$100.00                         |
| Funeral Director (MGL 114 §49)                       | \$100.00                         |
| Installation of a Well                               | \$25.00                          |
| Trailer Park In Lieu of Taxes (MGL 140 §32G)         | \$12.00 per unit per month       |
| Body Art Establishment                               | \$200.00                         |
| Body Art Practitioner                                | \$75.00                          |
| Title V Installer                                    | \$50.00                          |
| Install a Septic System                              | \$100.00                         |
| Section 8 Housing Choice Voucher (for DHA only)      | \$35.00                          |
|  | + \$7 per bedroom in group homes |

## **BOARD OF HEALTH OVERVIEW**

The Board of Health consists of three (3) community residents appointed by the Town Manager. They form a statutory Board created pursuant to the Town Manager's Act and the Massachusetts General Laws Chapter 111, Section 26 and Chapter 41, Section 1. They are charged with the protection of the public health and fulfill their duty by developing, implementing, and enforcing health policies, regulations and laws. Local Boards of Health have statutory powers to develop regulations in many areas of public and environmental health. The most important of these statutes are found in the sections of the General Laws that give regulatory power: "Make and enforce reasonable health regulations" (Ch. 111, s. 31; Ch. 111, s. 122); Cause to examine into and remove all nuisances, sources of filth and causes of disease within its town (Ch. 111, s. 123); Power to enforce the State Sanitary Code and State Environmental Code (Ch. 111, s. 127A and Ch. 21A, s. 13).

The official public health agency of the Town of Danvers is the Health Division of the Danvers Department of Planning and Human Services. The employees of the Division, herein referred to as the Board of Health (BOH), are appointed by the Town Manager, who maintains overall supervision through the Director of Planning & Human Services.

Since the members of the Board of Health are volunteers, their work of inspections, regulation, etc. is performed by employees of the Department of Planning and Human Services and/or by contractors providing various health-related services. The Board of Health usually meets on the first Thursday of the month, and more often when necessary to receive updates, set policy, or hold quasi-judicial hearings. Their meetings and hearings are held in strict accordance with the Public Records Laws.

The BOH is administered by a Director of Public Health who may act for the Board in emergencies and is charged with general responsibility for all phases of the operation. Assisting him is an Environmental Health Inspector and a part-time Registered Nurse.

The BOH is required by State mandate to perform inspections of restaurants, bakeries, caterers, markets and all other food handling establishments. This mandate is met through an innovative contractual arrangement with strict specifications, protocols, and evaluation procedures in place. Mobile home parks, motels, recreation camps, public and semi-public swimming pools, subsurface sewage disposal systems, private wells, tanning establishments, and tattoo and body piercing establishments are also carefully inspected by BOH staff. Licenses and permits are issued for all the above activities, as well as for funeral directors. Fees for these permits are collected and managed by the Director of Public Health. Finally, the Town of Danvers has charged the BOH with responsibility for animal control, and expects BOH staff to assist the Town Manager and other Department Managers on a wide scope of nuisance abatement and animal health issues.

## Duties of the Director of Public Health

### **Executive**

- A. Represents the Board of Health at all times except during public meetings of the Board.
- B. Manages the administration of Board of health activities, employees and contracted services.
- C. Plans health services as deemed appropriate (i.e., influenza immunizations, wellness clinics).
- D. Maintains all necessary records and reports of the Board of Health in accordance with applicable laws.
- E. Records, checks and certifies all requisitions, bills payable and payrolls of the Board of Health.
- F. Prepares the preliminary draft of the Board of Health proposed budget as a basis of discussion by the Board.
- G. Promotes and cooperates in regional activities and through professional organizations as a means to efficiently administer core public and environmental health services for residents.

### **Inspector of Animals**

- A. Makes an annual sanitary inspection and census of all agricultural animals.
- B. Reports to the Division of Animal Health, Massachusetts Department of Agriculture of all activities relative to the keeping of animals and animal health.
- C. Quarantines domestic animals and livestock suspected of being diseased.
- D. Obtains assistance of the Animal Control Officer when wild animals threaten public health or whenever necessary to enforce animal health regulations pertinent to the protection of public health.

### **Sanitarian/Non-Medical Health Officer**

- A. Receives, records, and reports all cases of diseases deemed dangerous to the public.
- B. Investigates, quarantines/isolates, interviews and/or inspects all cases of dangerous diseases.
- C. Identifies and quarantines/isolates contacts of foodborne disease cases who are food handlers.
- D. Cooperates with the Department of Public Health during communicable disease outbreaks.
- E. Investigates/inspects nuisances and sources of disease as required by law and/or requested by the public.
- F. Conducts risk assessments for community sanitation and disease control issues, and proposes action plans to the Board of Health.
- G. Initiates legal remedies to obtain compliance as appropriate.

### **Community Health Education**

- A. Plans and conducts community health education as appropriate through:
  - a. Activities conducted with Boy Scouts, schools, group lectures, service organizations, etc.
  - b. Press releases and interviews,
  - c. Direct outreach, i.e., bill enclosures, booklets, fliers, etc.
- B. Completes questionnaires from a wide scope of entities on matters relating to the public health.

## DUTIES OF THE ENVIRONMENTAL HEALTH INSPECTOR

- A. Licenses all food establishments, tanning establishments, motels, mobile home parks, recreation camps, public and semi-public swimming pools, septage haulers, body art establishments, garbage haulers.
- B. Reviews inspection results from contracted food safety inspectors and conducts follow-up inspections as required.
- C. Inspects all high risk food establishments
- D. Maintains a database and hard-copy filing system of all activities
- E. Investigates complaints and nuisances; issues Orders to Correct; reports findings to the Director; properly records all activities.
- F. Inspects establishments open to the public against the State Sanitary Code, State Environmental Code, and applicable laws.
- G. Inspects houses as places of human habitation; issues Orders to Correct; reports violations to the Director of Public Health and acts as provided in the State Sanitary Code and applicable laws.
- H. Inspects sewage disposal systems and other sources of pollution against the State Environmental Code and applicable laws.
- I. Conducts water quality analysis of the public bathing beach during summer months.
- J. Initiates enforcement actions against violators of the above laws and regulations.
- K. Manages Integrated Pest Management and Toxic Use Reduction at all Town owned buildings including schools.

## DUTIES OF THE ANIMAL CARE SPECIALIST

- A. Assists in quarantine of all domestic animals and livestock that may be suspected of being diseased.
- B. Work closely with the Animal Control Officer and in enforcement of the Town Leash Law and nuisances involving animals.
- C. Conducts outreach on animal health issues, i.e., rabies clinics for pets, education for children at parks and schools, etc.
- D. Provides staff support for the Stray's-in-Need program.
- E. Interface with the Danvers Animal Hospital and other veterinary clinics as required.
- F. Conducts an annual dog license audit and conducts enforcement procedures as appropriate.
- G. Assists the Director in Inspector of Animal duties.

## DUTIES OF THE PUBLIC HEALTH NURSE

- A. Obtain, store, and distribute State-provided vaccines in accordance with control requirements.
- B. Manage the distribution of medications for participants of Town Summer Recreation Program.
- C. Plan and conduct immunization clinics for adults and employees, i.e. influenza, Hep B.
- D. Conduct Wellness Clinics for seniors.
- E. Assist in the Recreational Camp for Children Inspection and Licensure Program.
- F. Conduct communicable disease investigations
- G. Consult on medical and nursing issues, and perform other duties as required by the Director of Public Health.

## OTHER PUBLIC HEALTH INFRASTRUCTURE

- A. The School Committee is responsible for school health issues. They provide a school physician and nurses.
- B. The region has an active Red Cross organization capable of assisting in crisis management and training.
- C. Several private practices, the Hunt Center/Beverly Hospital, Salem Hospital, Lyons Ambulance, Hospice, Visiting Nurses are involved in the following service areas:
  - a. Occupational health services to local industry in Danvers;
  - b. Home Care programs and Nursing services;
  - c. Therapy services;
  - d. Post natal services;
  - e. Disease screening;
  - f. Wellness evaluations;
  - g. Emergency health services.

In sum, the BOH has successfully identified and maintains active membership with many community based health service organizations. This network ranges from those mentioned above to senior and social services to substance abuse and homelessness. This comprehensive community health network remains poised to assist in the resolution of most public health disparities. However, quality of life issues, environmental links to disease, access to health care and an ever-broadening scope of contemporary public health concerns, allows the Board of Health to play a challenging and rewarding role in the health status of Danvers.

**TOWN OF DANVERS BOARD OF HEALTH REGULATIONS**

**Apartment and/or Condominium Basement Apartments**

**Town of Danvers, Massachusetts 01923**

The following regulation was adopted by the Board of Health of the Town of Danvers on September 15, 1980, in accordance with the provisions of Section 31 of Chapter 111 of the General Laws, as amended and for the protection of the public health.

"No portion of an apartment or condominium building below the first floor shall be used for dwelling units without specific determination of the Board of Health that adequate provisions are provided to ensure freedom from sewage backups and/or chronic or habitual dampness."

Richard B. Staples, Chairman  
C. Everett Elliott  
Anthony S. Patton, M.D.

Effective upon Publication.  
Adopted by vote: September 15, 1980  
Published in the Danvers Herald, Danvers, MA: December 4, 1980  
Filed with the DEP/DWPC: December 1, 1989



## **General Rules and Regulations Regarding Body Art**

### **Town of Danvers, Massachusetts 01923**

The Board of Health, Town of Danvers, Massachusetts, acting under the authority of Chapter 111, Section 31, of the Massachusetts General Laws adopted the following Regulation to protect public health during body piercing. The effective date was January 1, 2000. On September 13, 2001, this Regulation was amended to include body art in its entirety. The effective date shall be January 1, 2002.

#### Section 1.0 Authority

This regulation is promulgated under the authority of Section 31, Chapter 111 of the Massachusetts General Laws and amendments and additions therein, in the interest of and preservation of public health.

Rationale: the Town of Danvers is promulgating rules and regulations which provide minimum requirements to be met by any person performing body art upon any individual and for any establishment where body art is performed. These requirements shall include, but not be limited to, general sanitation of premises where body art is to be performed and the use of pre-sterilized, disposable equipment. These rules and regulations are necessary to protect the public's health by preventing diseases, specifically including, but not limited to transmission of Hepatitis B and/or Human Immunodeficiency Virus (HIV/AIDS), and other blood borne diseases.

In addition, these rules and regulations shall establish procedures for permitting of all persons performing body art, for the requirement of training courses in disease prevention and in anatomy and physiology, for regular inspections of premises where body art is performed, and for revocation of the permit of any person or establishment deemed in violation of the rules and regulations promulgated under this section. An annual, non-transferable permit fee set by the Town of Danvers, Board of Health shall be paid by any person or establishment permitted under this section.

#### Section 1. Definitions

1. Antibacterial solution means any solution used to retard the growth of bacteria approved for application to human skin and includes all products so labeled.
2. Bloodborne Pathogens Standard means OSHA Guidelines contained in 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens."
3. Board of Health Permit for Body Art means written BOH permit to engage in the work of body art.
4. 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.
5. 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.
6. 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.
7. Body art studio means any room or space where piercing is practiced or where the business of piercing is conducted.
8. 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-and-clasp system manufactured exclusively for ear-piercing. Establishments and/or individuals involved in the piercing of earlobes (only) must comply with relevant OSHA requirements.

9. BOH means the Board of Health
10. 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. This form of body art is not allowed.
11. Branding means inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar. This form of body art is not allowed.
12. 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 limitation.
13. Germicidal solution means any solution which destroys germs, and is so labeled.
14. 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.
15. Minor means any person under the age of eighteen (18).
16. Operator means any person who owns, controls, operates, conducts or manages any body art establishment, whether actually performing the work of piercing or not.
17. Practitioner means any person who performs piercing or tattooing of any part of the body other than the earlobe which is pierced by use of an appropriate piercing gun.
18. Sanitary means being clean and free of infection or disease.
19. Sanitization means cleaning process that provides sufficient concentration of chemicals to reduce the bacteria count, including pathogens, to a safe level on equipment.
20. Scarification means altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids. This form of body art is not allowed.
21. Sterilization means the holding in an autoclave for thirty (30) minutes, at twenty (20) pounds pressure, at a temperature of 275 degrees Fahrenheit.
22. 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.
23. Tattooing means any method of placing ink or other pigment ink or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
24. Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (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 fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

## Section 2. General Rules and Regulations Regarding Body Art

1. No minors shall receive body art.
2. No piercing of animals shall be allowed in body art studios.
3. Pre-procedural consultation to discuss body art and the health risks associated with it, shall be required with each client. An informed consent shall be signed by each client. Clients shall be given a copy of the consent form and a copy shall be kept on file by the establishment. Clients with medical conditions such as hemophilia, which may be exacerbated by body art procedures, shall be advised to first consult with their private physicians.
4. Clients who are visibly under the influence of alcohol or other drugs shall not receive body art.
5. Practitioners shall not perform body art while under the influence of any substance which may impair their judgment or ability to safely perform body art.
6. Performing body art of genitalia is not allowed.
7. Oral piercing is limited to the tongue, lips, and facial areas. Internal piercings, such as on the uvula are not allowed.
8. Clients must receive verbal and written instructions on post-procedure care and on the signs and symptoms of infection.
9. Infections and adverse reactions of any kind shall be reported to the Danvers Board of Health within 24 hours and the client referred to a physician for an examination.
10. EPA-approved disinfectants must be used to disinfect the surface of the skin in the area or body art, prior to performing body art.
11. Practitioners who receive needle stick injuries and/or any potential exposure to blood-borne pathogens on the job shall follow OSHA laws on the reporting and follow-up on needle stick injuries. OSHA guidelines shall be posted in employee area (Code of Federal Regulations 29 CFR 1910.1030-f).
12. All body art studios shall offer free Hepatitis vaccination series to their employees, as required by OSHA regulations.
13. No sales of body art needles or supplies are allowed to the general public.
14. The following body art practices are hereby prohibited: scarifying, branding; piercing of the uvula; piercing of the tracheal area; piercing of the neck; piercing of the ankle; piercing between the ribs or vertebrae; piercing of the web area of the hand or foot; piercing of the lingual frenulum (tongue web); piercing of the clitoris; any form of chest or deep muscle piercings, excluding the nipple; piercing of the anus; piercing of an eyelid, whether top or bottom; piercing of the gums; piercing or skewering of a testicle; so called "deep" piercing of the penis - meaning piercing through the shaft of the penis, or "transpenis" piercing in any area from the corona glandis to the pubic bone; so called "deep" piercing of the scrotum - meaning piercing through the scrotum, or "transcrotal" piercing; so called "deep" piercing of the vagina.
15. The following procedures are hereby prohibited unless performed by a medical doctor licensed by the Commonwealth of Massachusetts: tongue splitting; braiding; three dimensional beading implementation; tooth filing; cartilage modification; amputation; genital modification; introduction of saline or other liquids.
16. Requirements for Single Use Items Including Inks, Dyes and Pigments
  - a) 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.

- b) 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.
- c) 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 and their contents shall be discarded.

17. Failure to comply with any of the above regulations may result in immediate revocation of permit.

### Section 3. Body Art Permit

1. Requirements for Personal Permit: No person shall receive a permit to practice body art unless they meet the following requirements:
  - a) Be at least twenty-one (21) years of age.
  - b) Be of good moral and ethical character.
  - c) Submit to the Board of Health a completed application form containing all information requested by said form. False statements in said application shall be grounds for denial or revocation of a Permit.
  - d) Have had a physical examination within a twelve-month period of permitting.
  - e) A Mantoux (TB) testing within forty-five (45) days prior to application for permit and appropriate blood testing as allowed by law.
  - f) Submit two (2) character references (not immediate family members).
  - g) Submit a face front photograph (2 x 2) along with application.
  - h) Has complied with the BOH minimal training requirements for body art set out in section 4.
  - i) Has provided evidence in the form of a driver's license/state identification card that the applicant is not less than 21 years of age.
  - j) Has signed a written agreement to adhere to all regulations regarding body art practice.
  - k) Shall notify the BOH in writing of the body art establishment address. At said address, the permit must be conspicuously posted at all times.
  - l) Shall submit their policy on infection control to the Board of Health.

### Section 4. Minimal Training Requirements

1. Body art practitioners must show evidence of the following:
  - a) Completion of Basic Training in First Aid and CPR, as well as re-certification classes.
  - b) Completion of an OSHA course on Prevention of Disease Transmission and Blood-borne Pathogens.
  - c) Completion and passing of college Anatomy and Physiology courses I & II from an accredited college for piercing only.
  - d) The Applicant for a tattoo practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on skin diseases, disorders and conditions, including diabetes, or completed an

examination on skin diseases, disorders and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Board.

- e) Body art practitioners must present evidence of at least one year of apprenticeship under the supervision of a trained, experienced, professionally licensed body art practitioner.
- f) Yearly physical exams and evidence of health status are required for renewal of permit.

## Section 5. Facilities and Equipment

1. No person shall operate a body art establishment unless the BOH issues a permit to that person to operate the establishment.
2. No person shall perform body art, display a sign or in any other way advertise or claim to be a body art practitioner unless that person holds a valid BOH permit.
3. Facilities shall be located in accordance with zoning regulations and requirements:
  - a) Studio design, furniture, lighting, plumbing, water and sewerage must be in accordance with local ordinances.
  - b) With the exception of service animals (i.e. guide dogs), no animals shall be allowed on the premises, except fish in aquariums.
  - c) The floors, walls, ceilings, light fixtures, decorative materials, and similar equipment attached to the walls or ceilings shall be kept clean and in good repair.
  - d) Adequate ventilation (such as air conditioning, etc.) shall be used to keep the air dry and circulating.
  - e) All walls and ceilings shall be of a light color.
  - g) Convenient, clean, and sanitary toilet and hand-washing facilities shall be made accessible to customers. A hand-washing sign shall be posted in the bathroom, next to the sink. The plumbing fixtures and toilet room shall be in good repair. Single-use hand towels shall be provided. Mechanical air dryers are not recommended.
  - h) Body art studios shall be equipped with appropriate sterilizing equipment (i.e. a working steam autoclave). Autoclaves must be spore tested twice a month by independent laboratories to ensure they are working adequately.
  - i) Body art studios shall be equipped with appropriate cleansing equipment (i.e. a working ultrasonic clear).
  - j) Body art establishments shall submit an extermination certificate to BOH prior to opening establishment.
  - k) A sign provided by the BOH shall be posted conspicuously in the reception area warning of the hazards of potential infections from body piercing and tattooing.
4. Work Area:
  - a) Each body art studio shall have a separate work area not used for any other purpose, such as hairstyling.
  - b) No client shall receive body art at any other location in the studio other than the work area.
  - c) No client shall be allowed to perform their own body art.
  - d) Work areas shall not be used as a corridor for access to other rooms.
  - e) The floors, chairs and tabletops where body artwork is done shall be non-porous. Carpet is not permitted in the work area.

- f) The work area should be well-lit, with at least fifty (50) foot candles of light measured at the height of the work table.
- g) Facilities shall be equipped with sinks and basins with foot pedals or wrist levers and hot and cold running water in each work area.
- h) A covered waste receptacle with disposable liner bags shall be located in the work area.
- i) No person shall smoke, consume any food or drink in the work area.
- j) A sign provided by the BOH shall be posted conspicuously in the reception area warning of the hazards of potential infections from body piercing.
- k) Sharps containers shall be provided at each work area. All biohazardous waste shall be properly discarded in sharp containers or appropriately labeled biohazardous waste bags and properly disposed.

Section 6. Operation Procedures for Body Art Practitioners

1. Sanitary Procedures:

- a) Before procedure, practitioners shall complete all business transactions.
- b) Before procedure, practitioners shall obtain consent forms and provide a copy to the client.

2. Regarding Piercer's Jewelry:

- a) Before procedure, both client and piercer shall select appropriate size and quality of jewelry.
- b) Appropriate jewelry is made of implant grade, high quality surgical, stainless steel (316L VM series), solid 14K gold, niobium, titanium, and platinum. Appropriate jewelry has no nicks, scratches, or irregular surfaces which may endanger the body tissue.
- c) Ear studs or earring wire are not appropriate jewelry for other body parts and must not be used by piercers.

3. Hand Washing Procedures: Before working on each patron, the practitioner shall:

- a) Inspect hands for small cuts and abrasions.
- b) Refrain from body art or handling equipment if they have open sores, weeping dermatitis or lesions on hands or arms until the condition has cleared.
- c) Refrain from body art until the condition has cleared, if they have a cold, flu or other communicable disease.
- d) Wash hands, wrists and up to elbows with antibacterial solution.
- e) Dry hands thoroughly with single use disposable towel, such as a paper towel.
- f) Put on medical-grade latex, vinyl, or hypoallergenic gloves.

Section 7. Body Art Procedures:

1. Practitioners shall:

- a) Set up equipment in front of client.

- b) Packages containing sterile equipment will be opened in front of client.
- c) Jewelry contaminated with only airborne pathogens (not previously worn or contaminated) shall be disinfected with a non-hazardous hard-surface disinfectant approved by the E.P.A.
- d) All jewelry must be for single-use, on only one person, and shall not be reused on another client.
- e) All needles used in piercing and tattooing must be pre-sterilized, used on only one person, in one sitting, for single piercing, and immediately disposed of in a medical sharps container.
- f) Practitioners shall use pre-sterilized disposable equipment when possible. For equipment that is not disposable, such as surgical steel forceps, autoclaving and ultrasonic cleaning is required.

#### Section 8. Disinfection Procedures

1. Practitioners shall:

- a) Put on fresh gloves for disinfection routine.
- b) Move in such a manner to avoid re-contamination of surfaces.
- c) Discard disposable items and remove from work area.
- d) Remove plastic barrier film (if used) and disinfect surface areas, drawer pulls, cabinetry, telephones, lamps, chairs, sinks, tables, chairs, floor area, and any other surfaces that may have become contaminated.
- e) Dispose of single-use lap cloths after each use.
- f) Remove gloves, discard gloves, and wash hands.
- g) All reusable equipment, such as a marking pen, shall be nonporous and disinfected after each use. Non-spray wipes for surfaces and liquids for soaking jewelry are preferred over spray disinfectants, which may disperse pathogens into the air.
- h) Iodine, bacitracin, and other antiseptics shall be applied with single-use applicators. Applicators that have touched a client once may not be used to retrieve antiseptics, iodine, etc. from containers.
- i) For removal of bacitracin or other antibiotic solutions, blood, and other particles from a used, contaminated instrument (i.e. jewelry, forceps, pliers), cleansing with an ultrasonic cleaner, followed by a steam autoclave is required.
- j) Steam autoclave must be used on all equipment that may come in contact with the client or the jewelry (i.e. receiving tubes, rubber bands, insertion tapers, forceps, files, gauge wheels, pliers, etc.). Equipment shall be bagged, dated and sealed and then stored in a non-porous, dark, dry cool place, such as a medical credenza. Instruments shall be autoclaved at a temperature of 273 degrees F under pressure of 20 PSI for 30 minutes.
- k) Autoclaves shall be spore tested by independent laboratories at least twice a month.

#### Section 9. Disposal of Waste in Accordance with Town's Waste Ordinance

1. Proper disposal of hazardous and biological waste is mandatory. All needles must be disposed of in medical grade sharps containers and disposed of by a professional environmental company licensed by the state.

2. Any other supplies or material that is contaminated with blood or other body fluids shall be double-bagged in red, hazardous waste bags and also removed by an environmental company licensed by the state to remove biological waste.
3. Uncontaminated disposable waste shall be placed in easily-cleanable, sealed containers, with tight lids, to prevent leakage.
4. Waste containers shall be kept closed when not in use.

#### Section 10. Mobile Establishments

1. Mobile body art studios shall not be allowed to operate in Danvers.

#### Section 11. Fees

1. An annual permit fee will be submitted by check to the Town of Danvers Board of Health for each establishment.
2. An annual permit fee will be submitted by check to the Town of Danvers Board of Health for each body art applicant.
3. Each permit shall expire on December 31.
4. An applicant for permit shall pay a \$75.00 fee established by the Town of Danvers with an annual renewal fee of \$50.00 and shall show to the satisfaction of the BOH that the applicant.
5. In addition to the practitioner's fee, each establishment shall pay a \$175.00 fee, with an annual renewal fee of \$125.00 to operate the establishment.

#### Section 12. Enforcement Procedures

1. The practitioner's permit shall be suspended immediately upon notice to the holder (without a hearing) when BOH has reason to believe that an imminent health hazard exists.
2. In all other instances of violation, the BOH shall serve the registrant a written notice specifying the violations and allow the establishment the opportunity to correct the problems.
3. If a registrant fails to comply with the BOH Body Art Regulations, the BOH shall suspend the Body Art permit.
4. The establishment shall be notified in writing that the permit shall be suspended at the end of ten (10) days following the citing of the violations unless a request for a hearing is made to the BOH within the ten-day period.
5. Any person whose permit has been suspended may make a request in writing for reinstatement of the permit.
6. For serious or repeated violations or for interference with the BOH in the performance of its duties, or for persons found guilty of any crime related to body piercing, the body piercer's permit may be permanently revoked after an opportunity for a hearing has been provided.
7. Any person who performs piercing without a permit is subject to a fine of \$300 per day or brought before the district court.
8. Any person performing body piercing on a minor without the written consent and the presence of a parent or legal guardian is subject to a fine of \$300 per violation or brought before the district court.

#### Section 13. Exemptions



1. Physicians licensed in accordance with M.G.L. c. 122 sec. 2 who perform body art procedures as part of patient treatment are exempt from these regulations.
2. 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.

Section 14. Variance

1. The Board of Health may vary the application of any provision of any of these regulations with respect to any particular case when the Board of Health finds the enforcement thereof would do manifest injustice.
2. Every request for a variance shall be made in writing to the Board of Health and shall state the specific variance sought and the reasons thereof.
3. Any variance granted must be in writing with a copy available to the public at all reasonable hours in the office of the Town Clerk and in the office of the Board of Health. Any variance granted must be posted on the premises in a prominent location for the duration that the variance is in effect.

Section 15. Severability

1. If any section, paragraph, sentence, clause, phrase, or word of this regulation is declared invalid for any reason, that decision will not be applicable to the remaining portions of these regulations.

Section 16. Effective Date

1. This regulation shall take effect on January 1, 2000.

Town of Danvers  
Board of Health  
1 Sylvan St. - Town Hall Office  
Danvers, MA 01923

Linda C. Carroll, Chairman  
Edmund Kowalski  
John F. Hazelton, Jr., M.D.

(Published in the Danvers Herald)

2. This regulation as amended on September 13, 2001 shall take effect on January 1, 2002.

Edmund Kowalski, Chairman  
Linda C. Carroll  
Robert J. Kellard, M.D.

(Published in the Danvers Herald)

3. This regulation as amended on December 03, 2007 shall take effect upon publication.

Dr. Robert J. Kellard, M.D.; Chairman  
Linda C. Carroll  
Edmund Kowalski

(published in the Danvers Herald)

**Demolition/Rodent Control**

**Town of Danvers, Massachusetts 01923**

In accordance with Chapter 111, Section 31, General Laws of the Commonwealth of Massachusetts, the following regulation is promulgated by the Board of Health of the Town of Danvers, for the protection of the public health.

No permit shall be issued to demolish or move any building or structure unless a certificate has first been obtained from the Director of Public Health that proper measures have been taken for the eradication or prevention of spread of rodents from the premises.

Richard B. Staples, Chairman  
C. Everett Elliott  
Anthony S. Patton, M.D.

Effective date: November 24, 1983  
Adopted by vote: November 14, 1983  
Published in the Danvers Herald, Danvers, MA: November 23, 1983  
Filed with the DEP/DWPC: January 2, 1990

## **Garbage Disposers**

### **Town of Danvers, Massachusetts 01923**

Rules and Regulations Requiring Garbage Disposers in Dwellings and Food Preparation Rooms in Sewered Areas of the Town.

The following rules and regulations are enacted under authority granted by the General Laws of the Commonwealth of Massachusetts, Chapter 111, Section 31, 122 and 127 and all other enabling statutes thereof. These Rules and Regulations shall not apply to buildings where sewer is not accessible.

"Remodeled or altered" for the purpose of these regulations shall mean to make such changes to structure as to change its character; i.e., converting a single family residence into a multi-family dwelling; converting a building into a commercial food handling establishment.

Upon publication of these regulations, all new buildings and all buildings remodeled or altered which are designed, equipped and used for storing or sheltering of feed or food stuffs for human consumption, including fruits, vegetables and meats, which are to be sold whether at retail or stores, clubs, hotels, restaurants, schools or other food establishments or at wholesale, or which are prepared at food manufacturing or processing plants, whether such places of business are licensed under the provisions of another Town ordinance or not and all new and remodeled buildings where food for human consumption are prepared, sold, handled, stored or served in any manner whatsoever, shall be equipped with an appropriate type of garbage grinder, properly connected shall be of sufficient size to grind all garbage and food processing wastes produced in such buildings, and shall be suitable located so as to discharge such ground material by flushing it with water through the drain pipes into the sewer; provided, however, that if in operating any business as herein described packaged or canned food are not opened on the premises, a garbage grinder for such canned or packaged food shall not be required.

Where a municipal sewer is available all dwellings constructed or remodeled and all new or remodeled restaurants or other permanent commercial type buildings containing kitchens or food preparation rooms hereafter shall provide and maintain in proper working order an approved mechanically operated grinder for each family unit.

These regulations in themselves shall not be construed to require a person to connect to the public sewer or to install a garbage disposer when simply making a connection to the public sewer.

Such garbage grinder shall be so designed:

1. That it will operate by a switch or with water flowing into the grinder and through the sink drain line.
2. That it shall discharge wastes at a reasonably uniform rate in fluid form which shall flow readily through an approved trap, drain line or soil line in a manner which will prevent clogging or stoppage of drain line.
3. That it shall be of such construction and have such operating characteristics that at least forty percent (40%) of all material discharged from it shall pass at number eight (8) sieve, at least sixty-five percent (65%) shall pass at number three (3) sieve, and one hundred percent (100%) shall pass at one half inch (1/2) sieve.
4. That it shall be self-scouring with no fouling surfaces to cause objectionable odors.
5. That it shall be free from electrical or mechanical hazards.
6. The final decision as to the sufficiency of the designs to meet these requirements shall rest with the Danvers Board of Health.
7. That it shall be connected to the drain in compliance with the provisions of the plumbing and electrical code of the Town of Danvers.
8. That the entire installation shall comply in all particulars with the provisions of the plumbing and electrical code of the Town of Danvers.

9. Each garbage grinder shall have an independent trap.

Separability: So far as the Board of Health may provide each section of these rules and regulations shall be construed as separate to the end that if any section, sentence, clause or phrase shall be held invalid for any reason, the remainder of the rules and regulations shall continue in full force.

Penalty: Whoever himself or by his servant or agent or as the servant or agent or any other person or any firm or corporation violate any provision of these rules and regulations, shall be punished as provided by the General Laws of the Commonwealth of Massachusetts. Each and every violation of the provisions of these rules and regulations shall constitute a separate offense.

Andrew Nichols, III, M.D.  
C. Everett Elliott  
Richard B. Staples

Effective upon Publication.  
Adopted by vote: August 9, 1971  
Published in the Danvers Herald, Danvers, MA: August 19, 1971  
Filed with the DEP/DWPC: December 1, 1989

Richard B. Staples, Chairman  
C. Everett Elliott  
Anthony S. Patton, M.D.

Effective upon Publication.  
Amended by vote: October 18, 1982  
Published in the Danvers Herald, Danvers, MA: December 16, 1982  
Filed with the DEP/DWPC: December 1, 1989

## **Garbage Hauling**

### **I. PURPOSE**

Improper management of solid waste and sewage causes odors, and attract flies, rats, roaches, wandering domestic animals and wildlife, which results in a public nuisance and threat to public and environmental health. Where containers or methods which are not suitable or are inadequate, a source of food, water and harborage for pests and other problem animals exists. It is the intent of this regulation to reduce the number of complaints related to solid waste; reduce the number of complaints of rodent sightings; and, prevent the threat of disease from vermin such as insects, rats and other wildlife which propagate by improperly managed waste.

### **II. AUTHORITY:**

Whereas Massachusetts General Law Chapter 111, Section 31A states “No person shall remove or transport garbage, offal or other offensive substances through the streets of any city or town without first obtaining a permit from the board of health of such city or town;” and,

Whereas Chapter 111, Section 31A further states “any person may, without such a permit, transport garbage, offal or other offensive substances through the streets of a city or town in which said substances were not collected; provided, that he registers with the board of health of such city or town; and, provided further, that he transports said substances in accordance with such reasonable rules and regulations as may be established by such board of health;” and,

Whereas the Board of Health shall, from time to time, make rules and regulations for the control of the removal, transportation or disposal of garbage, offal or other offensive substances as required by Massachusetts General Law Chapter 111, Section 31B;

The following Minimum Standards for the Removal, Transportation and Disposal of Waste and Offensive Substances and the Maintenance of Dumpsters and Portable Toilets are hereby adopted by the Danvers Board of Health.

### **III. SCOPE**

- A. These regulations shall apply to:
  - a. All commercial and domestic garbage, rubbish and mixed garbage and rubbish and offensive substances;
  - b. All receptacles for the storage of commercial and domestic garbage, rubbish and mixed garbage and rubbish and offensive substances;
  - c. All motor vehicles used for hauling , commercial and domestic garbage, rubbish and mixed garbage and rubbish and offensive substances
  - d. All portable toilets
- B. These regulations shall not apply to:
  - a. Any receptacle with a volume of less than 49-gallons
  - b. Composting materials as defined by this regulation
  - c. Hazardous waste as defined by MGL Ch 21E, 310 CMR 40, and 105 CMR 650;
  - d. Infectious waste as defined by 105 CMR 480
  - e. Recyclable materials as defined by this regulation

### **IV. DEFINITIONS**

- a) **COMMERCIAL WASTE** shall mean the garbage and rubbish material resulting from the operation of business enterprises. Manufacturing and trade wastes are not included.
- b) **COMPOSTABLE MATERIALS** shall mean organic material, excluding waste water residuals, which have the potential to be composted and which is pre-sorted and is not

contaminated by significant amounts of toxic substances as defined by the Department of Environmental Protection (310 CMR 19.00).

- c) **COMPOSTING** shall mean a process of accelerated bio-degradation and stabilization of organic material under controlled conditions yielding a product that can safely be used for fertilizing and conditioning the land.
- d) **CONSTRUCTION WASTE** shall mean any materials generated from, but not limited to, the processes of construction, demolition, and renovation, including domestic home improvements.
- e) **DOMESTIC WASTE** shall mean the garbage and rubbish resulting from the usual routine of housekeeping.
- f) **DUMPSTER** shall mean any container, receptacle, compactor unit, trailer, roll-off, or other similar unit with or without wheels that is used for the temporary storage, containment, or transport of refuse, garbage, demolition debris, or other discarded materials.
- g) **GARBAGE** shall mean the animal, vegetable or other organic waste resulting from the handling, preparing, cooking, consumption, or cultivation of food, and containers and cans which have contained food unless such containers and cans have been cleaned or prepared for recycling.
- h) **HAZARDOUS WASTE** shall mean any waste, solid or liquid, which poses a significant environmental or human health risk. This can include such items as pesticides, used motor oil and other products associated with automobiles, disinfectants, and miscellaneous art and hobby chemicals (Refer to 105 CMR 650.000 and DEP Guidelines).
- i) **INFECTIOUS WASTE** shall mean waste which because of its characteristics may cause or significantly contribute to an increase in mortality, morbidity or pose an environmental hazard when improperly treated, stored, transported, disposed of or otherwise managed. These include but are not limited to blood and blood products, pathological waste, sharps, contaminated animal carcasses, and biotechnological by-products (Refer to 105 CMR 480.000 for Department of Public Health standards).
- j) **LEAF AND YARD WASTE** shall mean leaves, grass clippings, soil, sand, manure, wood chips, shrub trimmings, plant cuttings and other similar materials.
- k) **MANUFACTURING WASTE** shall mean any waste resulting from manufacturing processes.
- l) **OFFAL** shall mean the waste of a food process, such as viscera and trimmings of animals; or the by-product of milled or processed vegetables.
- m) **OFFENSIVE SUBSTANCE** unless otherwise stated, shall mean septage: as material physically removed from any part of an on-site sewage disposal system, including, but not limited to, the solids, semi-solids, scum, sludge and liquid contents of a septic tank, privy, chemical toilet, cesspool, holding tank, or other sewage waste receptacle. It does not include any material which is hazardous waste as defined by 310 CMR 40.000.
- n) **PERSON** shall mean every individual, partnership, corporation, firm, association, or group, including the Commonwealth of Massachusetts or any political subdivision thereof or other governmental unit except where expressly prohibited; owning, renting or otherwise residing or carrying on activity in the Town of Danvers.
- o) **PORTABLE TOILET** shall mean a non-flush toilet facility wherein the waste is deposited directly into a container or receptacle without flushing; and, is readily or easily relocated.
- p) **RECYCLABLE MATERIALS** shall mean materials which may be reclaimed and returned to the economy in the form of raw materials or products, including paper, plastics, glass, and aluminum containers.
- q) **RUBBISH** shall mean combustible and non-combustible waste material, except garbage, and includes but is not limited to such material as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, yard trimmings, grass clippings, metals, mineral matter, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible materials. This does not include tree waste or recyclable materials.
- r) **TRADE WASTE** shall mean excess material used in the process of shipping and/or receiving goods.

- s) TREE WASTE shall mean tree stumps, trunks or limbs, three (3) inches or more in diameter or three (3) feet or more in length. Tree waste is not classified as municipal waste.
- t) WASTE shall mean the garbage and rubbish material resulting from the operation of business enterprises; the garbage and rubbish resulting from the usual routine of housekeeping; the animal, vegetable or other organic waste resulting from the handling, preparing, cooking, consumption, or cultivation of food, and containers and cans which have contained food unless such containers and cans have been cleaned or prepared for recycling; a solid or liquid, which poses a significant environmental or human health risk such as pesticides, used motor oil and other products associated with automobiles, disinfectants, and miscellaneous art and hobby chemicals; waste which because of its characteristics may cause or significantly contribute to an increase in mortality and morbidity or pose an environmental hazard when improperly treated, stored, transported, disposed of or otherwise managed including but not limited to blood and blood products, pathological waste, sharps, contaminated animal carcasses, and biotechnological by-products; leaves, grass clippings, soil, sand, manure, wood chips, shrub trimmings, plant cuttings and other similar materials; waste resulting from manufacturing processes; waste of a food process, such as viscera and trimmings of animals; the by-product of milled or processed vegetables; septage, as material physically removed from any part of an on-site sewage disposal system, including, but not limited to, the solids, semi-solids, scum, sludge and liquid contents of a septic tank, privy, chemical toilet, cesspool, holding tank, or other sewage waste receptacle; excess material used in the process of shipping and/or receiving goods; tree stumps, trunks or limbs, three (3) inches or more in diameter or three (3) feet or more in length.

#### V. PERMIT REQUIRED

No person may install, maintain or empty a dumpster within the Town of Danvers until it has been granted a permit by the Board of Health by meeting all of the following conditions:

- a) An Application for a Permit to Transport Garbage, Offal or Offensive Substances on a form prescribed by the Board of Health shall be filed and approved by the Board of Health. Said application shall be signed under the Pains and Penalties of Perjury.
- b) The appropriate fee, as set by the Danvers Board of Health shall be paid along with the Application.
- c) A person seeking an initial Permit to Transport Garbage, Offal or Offensive Substances shall provide the Board of Health a list of all current dumpster service locations.
- d) The Permit to Transport Garbage, Offal or Offensive Substances shall expire each December 31<sup>st</sup> unless suspended or revoked for cause by the Board of Health. An Application for a Permit to Transport Garbage, Offal or Offensive Substances shall be filed thirty (30) days prior to the expiration of the current permit along with the appropriate fee on a form prescribed by the Board of Health. Said application shall be signed under the Pains and Penalties of Perjury.

#### VI. REGISTRATION REQUIRED

No person shall transport Garbage, Offal or Offensive Substances collected outside the limits of the Town of Danvers or through the streets or highways of the Town of Danvers without:

- a) Registering the vehicle with the Board of Health on a form prescribed by the Board of Health.
- b) Paying the appropriate registration fee to the Town of Danvers as set by the Board of Health.
- c) Describing the route taken through the Town of Danvers.

VII. REGISTRATION OF DUMPSTER AND PORTABLE TOILET LOCATIONS

- a) No person shall provide or maintain a dumpster or portable toilet within the Town of Danvers for greater than seven (7) calendar days without registering the dumpster or portable toilet with the Board of Health.
- b) A person shall register each dumpster or portable toilet location within the Town of Danvers within seven (7) calendar days of the provision of said dumpster.
- c) The Registration of a Dumpster or Portable Toilet shall be made on a form prescribed by the Board of Health.
- d) The appropriate fee as set by the Board of Health for the Registration of a Dumpster or Portable Toilet shall be paid at the time of Registration.
- e) The owner of a parcel of land on which a dumpster has been placed, shall post the Registration in a conspicuous area or as determined by the Board of Health.

VIII. MINIMUM STANDARDS OF MAINTENANCE FOR DUMPSTERS AND PORTABLE TOILETS

- a) All dumpsters and portable toilets shall display a clearly visible decal or stencil which provides the name and phone number of the Person which owns and/or maintains the dumpster or portable toilet.
- b) All dumpsters shall be provided with a lid or cover in good working condition and fit for its intended use as determined by the Board of Health.
- c) The lid of all dumpsters shall remain closed except when depositing or emptying the contents of the dumpster.
- d) All dumpsters and portable toilets shall be placed on a solid, level and cleanable surface or as determined by the Board of Health.
- e) All dumpsters shall be maintained with its drain plugs in place.
- f) All dumpsters and portable toilets shall be free from rust, corrosion and holes which allow the entry of pests or the escape of solid or liquid wastes.
- g) A dumpster or portable toilet shall not be placed in a manner which hinders access or use of a public way or sidewalk.
- h) Every dumpster or portable toilet shall be emptied of its contents at a frequency necessary to prevent a nuisance or unsanitary condition or as determined by the Board of Health.
- i) Every person shall maintain the dumpster or portable toilet area in a clean and sanitary condition or as determined by the Board of Health. The owner of a parcel of land on which a dumpster or portable toilet has been placed shall be responsible for maintenance of the parcel of land on which a dumpster has been placed.
- j) The owner or occupant of any parcel of land who uses a dumpster shall provide pest control services if deemed necessary by the Board of Health due to the presence of rodents or pests or the habitat of rodents and pests is identified.
- k) The owner or occupant of any parcel of land shall provide to the Board of Health access for the inspection of the above requirements and other applicable law.



IX. GROUND FOR DENIAL, SUSPENSION AND/OR REVOCATION OF A PERMIT

- a) The Board of Health may refuse to issue a permit, initial or renewal, based on one or more of the following grounds. Each shall constitute full and adequate grounds to refuse to issue a permit. The notice of refusal shall provide the grounds upon which the denial is based and shall notify the applicant of the right to a hearing. The following shall be grounds for denial of an Application to Transport Waste:
- i. Failure to submit a permit application in accordance with Board of Health procedures.
  - ii. Failure to submit the required fee.
  - iii. Any attempt to impede the work of a duly authorized agent of the Board of Health.
  - iv. Providing false or misleading statements to the Board of Health.
  - v. The applicant operated without a permit.
  - vi. The applicant or, if the applicant is a corporation, a corporate officer or the owner of the facility, has been convicted of, plead guilty or *no lo contendere* to, or has in a judicial proceeding, admitted facts sufficient to find that s/he is guilty of a crime in connection with the business.
  - vii. The applicant, or if the applicant is a corporation, a corporate officer or the owner of the company has engaged in conduct that has endangered the public health.
  - viii. Failure to pay any federal, state or local taxes as required by law pursuant to MGL c. 62C, § 49A.
  - ix. Failure to comply with this regulation or other local regulations, by-laws, ordinances or rules in relation to the business.
  - x. Such other reasons not stated above which pose a risk to the public health and safety.
- b) The Board of Health may issue a notice to suspend the Permit to Transport Waste or one or more particular operations conducted under the Permit. The following shall be grounds for Suspension of a Permit to Transport Waste:
- i. Failure to comply with the requirements of this regulation.
  - ii. Attempts to impede the work of a duly authorized agent of the Board of Health.
  - iii. Providing false or misleading statements or documents to the Board of Health or keeping any misleading or false records or documents intended to satisfy the requirements of this regulation.
  - iv. The applicant or, if the applicant is a corporation, a corporate officer or the owner of the facility, has been convicted of, plead guilty or *no lo contendere* to, or has in a judicial proceeding, admitted facts sufficient to find that s/he is guilty of a crime in connection with the business.
  - v. The applicant, or if the applicant is a corporation, a corporate officer or the owner of the company has engaged in conduct that has endangered the public health.
  - vi. Failure to pay any federal, state or local taxes as required by law pursuant to MGL c. 62C, S49A.
  - vii. Failure to comply with this regulation or other local regulations, by-laws, ordinances or rules in relation to the business.

viii. Such other reasons not stated above which pose a risk to the public health and safety.

- c) The Board of Health may issue an order to revoke a Permit or refuse to renew a Permit or terminate one or more particular operations for:
  - i. Serious or repeated violations of any of the requirements of this regulation
  - ii. Failure to comply with an Order of the Board of Health.

#### X. ENFORCEMENT

The Board of Health or an agent of the Board of Health authorized under Massachusetts General Law, c. 111, § 30 shall have the authority to enforce the provisions of this regulation.

#### XI. PENALTIES

- a) Whoever violates any provision of this regulation shall be fined in accordance with Chapter XXVII of the Town of Danvers By-Laws:

|   |          |
|---|----------|
| 1 <sup>st</sup> offense -               | Warning  |
| 2 <sup>nd</sup> offense -               | \$25.00  |
| 3 <sup>rd</sup> offense -               | \$50.00  |
| 4 <sup>th</sup> or subsequent offense - | \$100.00 |

Each day's violation or failure to comply with an order shall constitute a separate offense.

- b) The Board of Health may suspend or revoke the Permit to Transport Waste or Registration to Transport Waste or Registration of a Dumpster or Portable Toilet for any violation of this regulation after an opportunity for a hearing is provided.
- c) The Board of Health may order or place a lock or locking device on a dumpster or portable toilet in order to gain compliance with this regulation.

#### XII. VARIANCE

- a) The Board of Health may, after a hearing, vary the application of any provision of this regulation with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice; provided, that the decision of the Board of Health shall not conflict with the spirit of Massachusetts General Law c. 111, § 122.
- b) Any variance or other modification authorized by the Board of Health may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses in its grant. A variance or other modification authorized to be made by this article may otherwise be revoked, modified or suspended in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.

#### XIII. SEVERABILITY

If any section, paragraph, sentence, clause, phrase or word of this regulation shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of this regulation which shall remain in full force and effect; and to end the provisions of this regulation and all Board of Health regulations are declared severable.

REGULATORY AUTHORITY – MGL Chapter 111, Section 31; Chapter 111 Section 31A; Chapter 111, Section 31B

Dr. Robert J. Kellard, M.D., Chairman  
Edmund J. Kowalski, R. Ph.  
Martha R. Swindell, RN

Adopted by vote: December 4, 2008  
Published in the Danvers Herald, Danvers, MA: December 11, 2008  
Filed with the DEP: December 5, 2008

Effective upon Publication

## **Grease Traps**

### **Town of Danvers, Massachusetts 01923**

In accordance with the Commonwealth of Massachusetts and Regulation 5, Title 5 of the State Environmental Code (310CMR 15.00), the following regulations as adopted by vote of the Board of Health, Town of Danvers.

"Pursuant to Regulation 5 of the State Environmental Code (310 CMR 15.00), the owner of any commercial food establishment or his designee shall inspect the grease trap(s) monthly and shall have it (them) cleaned before the level of grease exceeds twenty-five percent (25%) of the effective depth of the trap and under no circumstances is a grease trap to be cleaned less often than once every three (3) months. All persons transporting sewage collected with the Town of Danvers shall report the cleaning of food establishment grease traps to the office of the Board of Health. This report shall be made on a form supplied by the Board of Health and shall be completed and delivered to the office of the Board of Health on or prior to the first day of the month of February, May, August, and November of each year. The report shall be for the previous three months.

Richard B. Staples, Chairman  
C. Everett Elliott  
Anthony S. Patton, M.D.

Effective upon Publication.

Adopted by vote: December 13, 1982

Published in the Danvers Herald, Danvers, MA: February 24, 1983

Filed with the DEP/DWPC: January 3, 1990

## **Human Habitation \***

### **Town of Danvers, Massachusetts 01923**

Regulations Amending the Sanitary Code, Article II, Minimum Standards of Fitness for Human Habitation.

In accordance with Chapter 111, Section 127A, General Laws of the Commonwealth of Massachusetts, the following regulations are promulgated by the Board of Health of the Town of Danvers for the protection of the public health:

Whenever, a multi-unit dwelling unit, apartment, or tenement, other than a hotel, motel or rooming house is vacated by the occupant or occupants thereof, or within ten (10) days before the expiration date of the anticipated vacancy, it must be certified by the Board of Health or by the Director of Public Health prior to being reoccupied by a new occupant as meeting the standards set forth in "The Sanitary Code, Article II, Minimum Standards of Fitness for Human Habitation" as promulgated and from time to time amended by the Department of Public Health of the Commonwealth of Massachusetts under the authority of the General Laws, Chapter 111, Section 127A. However, regardless of the number of occupancy changes during any twelve (12) month period, one such certification shall be sufficient for such a twelve (12) month period. After inspection of the vacant premises by the Board of Health or by the Director of Public Health, all public utilities servicing said vacant premises may be ordered turned off by the Board of Health or by the Director of Public Health until such multi-unit dwelling unit, apartment, or tenement is certified as being fit for human habitation after reasonable notice of such action has been given the owner. If, within forty eight (48) hours, excluding Saturdays, Sundays and Holidays, after receipt of written notification of a vacancy from the owner of record, managing agent or person in possession, the Board of Health or its agents fail to make an inspection, then the multi-unit dwelling unit, apartment, or tenement may be reoccupied without such certification. Also, if an exact time for the inspection having been arranged mutually between an agent of the Board of Health and the owner of record, managing agent or person in possession of a vacancy, said agent of the Board of Health fails to be present at the site for inspection within thirty (30) minutes after the time established for inspection then the multi-unit dwelling unit, apartment, or tenement shall not be inspected until a new application for inspection is made by the Board of Health or its agents and shall not be reoccupied within such certification. If after inspection of the premises by the Board of Health or its agents, the Board of Health determines that the owners should be given time to make repairs necessary to qualify for certification and the health and safety of any occupant is not thereby judged to be thereby endangered, the Board of Health or Director of Public Health may issue a temporary occupancy permit not to exceed thirty (30) days.

Before any public utilities are ordered shut off the Board of Health or Director of Public Health shall give three (3) days notice in writing to the owner of record, the managing agent or person in control of the vacant premises that such action is to be taken. This regulation shall not apply to new construction which is in compliance with the General Laws of the Commonwealth of Massachusetts and State and local requirements pertaining thereto; nor shall it apply to new construction which was completed less than three (3) years prior to the date on which the multi-unit dwelling unit, apartment or tenement becomes vacant. Any owner of record of such property used for dwelling purposes failing to comply with this regulation shall pay a fine of twenty dollars (\$20.00) each and every day he allows any person or persons to live, occupy or inhabit the said premises without having received an occupancy permit from the Board of Health or the Director of Public Health.

The applicable fine shall be increased from twenty dollars (\$20.00) to five hundred dollars (\$500.00).

Andrew Nichols, III, M.D.  
C. Everett Elliott  
Richard B. Staples

Effective date: September 3, 1974  
Adopted by vote: June 10, 1974  
Published in the Danvers Herald, Danvers, MA: June 26, 1974  
Filed with the DEP/DWPC

C. Everett Elliott, Chairman  
Anthony S. Patton, M.D.  
Edmund J. Kowalski, R. Ph.

Effective date: Upon publication

Amended by vote: December 11, 1989  
Published in the Danvers Herald, Danvers, MA: January 25, 1990  
Filed with the DEP/DWPC

**\* The Board of Health voted unanimously to rescind this Regulation in its entirety on February 24, 1992.  
Filed with the DEP: September, 1992**

## MESSAGE RULES

Town of Danvers, Massachusetts 01923

### RULES AND REGULATIONS FOR MASSAGE THERAPY, POLARITY THERAPY, AND BODYWORK ACTIVITIES.

The following rules and regulations entitled "Regulations Governing the Practice of Massage and the Conduct of Establishments for the Giving of Massage", adopted by vote of the Board on March 12, 1973, and amended on December 11, 1988, April 22, 1992, June 9, 1992 and March 8, 1993, April 17, 2003 under the authority of Section 31 of Chapter 111 and Sections 51 and 53 of Chapter 140 of the General Laws of the Commonwealth of Massachusetts are hereby amended as follows: The Danvers Board of Health finds it necessary to license the practice of massage therapy/bodywork/movement education in order to protect the public health. It is the Board's intent that only establishments that meet and maintain minimum standards of competence may provide services to the public.

1. The title of these regulations shall be adopted as "Minimum Sanitary Standards for Massage Establishments."
2. Permit Required and Fee: No person shall conduct an establishment for the giving of massage for hire or reward or advertise or hold himself out as being engaged in the business of massage in the Town of Danvers without receiving a permit therefore from the Danvers Board of Health. There shall be a permit fee for each establishment giving massage, in an amount as established from time to time by vote of the Board of Health. A permit issued to an establishment is not transferable.
3. Definitions: For the purpose of these regulations.
  - A. Massage shall mean manipulation or conditioning of a part or parts of the body by manual or other means, as a purported health or invigoration treatment.
  - B. Establishment for giving massage means the office, place of business, or premises where massage is practiced.
  - C. Approved shall mean approved by the Board of Health of the Town of Danvers in accordance with accepted standards.
  - D. Approved course of massage shall mean a course of the art and science of Massage, Polarity, or Bodywork which included both theory and practice and which course has been approved by a nationally recognized and accepted School of Massage or Institute of Massage.
  - E. Massage therapist shall mean a male or female who practices massage.
  - F. Off-premises massage therapy/bodywork/movement education business shall mean any person, firm, association, partnership, corporation or combination of persons who provide or permit to be provided massage therapy/bodywork/movement education at a location other than an establishment, which has been licensed or which should be licensed under this regulation, including but not limited to private homes, businesses and sports events.
4. Exceptions and exclusions: For the purpose of these regulations:
  - A. Establishment exceptions: Hospitals, nursing and convalescent homes, and other similar licensed institutions where massage may be given are excluded from the definition of an establishment. Also, any facility conducting the services of a hospital, nursing and convalescent home or other similar institution as determined by the Board of Health, but due to some limiting factor is not subject to licensing, shall be similarly excluded from the definition of an Establishment. Physicians, chiropractors, nurses, physical therapists, school athletic trainers, or chiropodists (podiatrists) registered in the Commonwealth are excluded. A person registered as a barber or an apprentice under the provisions of Section 87H or Section 87I of Chapter 112 of the General Laws or as a hairdresser, or a student under the provisions of Sections

87T to 87JJ, inclusive of said Chapter 112 of the General Laws may practice facial and scalp massage without taking out a license.

5. Expiration Date of Permit: Permits shall automatically expire on April 30th of each year. Applications for renewal must be submitted at least thirty (30) days prior to expiration date.
6. Requirements for Therapists to Practice Massage: Each individual establishment shall create specifications and or qualifications for employees. These specifications shall be submitted to the Board of Health in writing with the first establishment application after the enactment of these regulations, and shall re-submit the specifications when alterations are made.
7. Requirements for Permit for an Establishment: Every establishment for the giving of massage shall meet the following standards:
  - A. Shall be staffed by a person or persons who have been approved to practice Massage Therapy, Polarity Manipulation or Bodywork Practitioning as stated in the rules governing such practices in the Town of Danvers.
  - B. It shall have an adequate means of sewage disposal.
  - C. It shall be well lighted, well ventilated and properly heated when seasonally indicated.
  - D. No room used by the permit holder in the conduct of his/her business shall be used as a bedroom.
  - E. There shall be an adequate supply of hot and cold running water, readily accessible at all times, located on the premises where massage or body work is to be conducted.
  - F. There shall be approved toilet and washing facilities within the premises readily available to the patrons and affording sufficient privacy. If shower facilities are not available the establishment must provide hypo allergenic soap, warm water and/or other hygienic cleansing materials.
  - G. All rooms of the establishment and furniture and equipment therein shall be kept clean at all times.
  - H. Each room or enclosure used for the giving of massage services shall have at least one artificial light of not less than forty (40) watts.
  - I. There shall be installed a heat and smoke detecting system approved by the Fire Department of Danvers.
  - J. There shall be adequate facilities for the cleaning of all equipment.
  - K. All rooms used for reception and treatment of patrons shall be arranged so as to afford adequate fire protection and shall have satisfactory means of egress in case of fire as approved by the Danvers Building Inspector and Danvers Fire Chief.
  - L. All equipment, instruments, devices, robes, sheets, blankets, pillow cases, wearing apparel, towels or other materials which may come in direct contact with the body shall be properly cleaned.
  - M. Adherence to the Code of Ethics of the National Organizations of which you are a member.
  - N. No alcoholic beverages shall be permitted on the premises.
  - O. All new clients must first completely read and sign an intake form listing common contraindications and allergies.



P. If shower facilities are not provided, the operator shall post conspicuously at the reception area of the facility a sign which shall read:

NOTICE TO MASSAGE CLIENTS

THIS ESTABLISHMENT DOES NOT PROVIDE A SHOWER FOR USE AFTER MASSAGE.  
IF YOU BELIEVE YOU ARE ALLERGIC TO LOTIONS, OILS OR POWDERS, PLEASE  
NOTIFY THE THERAPIST PRIOR TO THE MASSAGE AND THEY WILL NOT BE USED.

IF REQUESTED, THE THERAPIST WILL USE RUBBING ALCOHOL OR SOAP AND WATER  
TO REMOVE OILS, LOTIONS OR POWDERS USED DURING MASSAGE.

(The above shall be printed using 1" lettering for the heading and 1/2" lettering for the body of the statement).

8. Dress Code: All individuals who are engaged in the practice of massage shall present themselves in a clean, sanitary and professional manner.
9. Direct Application of Instruments to Skin Prohibited: No instruments or devise designed or used for direct application to the skin shall be applied directly to the skin unless properly cleaned and disinfected.
10. The Treatment of Wounds Prohibited: No sponge, stick, alum or other article liable to convey infection shall be used to make application directly to the skin or any cut or wounds.
11. Treatment of Persons With Skin Disease Prohibited: No person shall treat any person afflicted with any skin eruption or other disease unless such person shall have furnished a written certificate from a physician to the effect that the eruption or disease is not of contagious or transmissible character.
12. Cleaning of Hands: Every person authorized to practice massage shall thoroughly cleanse his/her hands by washing with soap and hot water immediately before serving a patron. Upon interruption of service, every therapist shall sanitize their hands with an approved sanitizer.
13. Display of Permit: Each establishment shall display in a conspicuous location the establishment permit issued by the Board of Health.
14. Designation of Name: No persons shall operate under any name or conduct his/her business under any designation not specified on his or her Permit.
15. Change of Address: Every Permit Holder shall notify the Board of Health prior to any change of address, home or business, or name. Any new permit or amendment to an existing permit required because of the foregoing may be issued.
16. Inspections: Every Permit Holder shall allow the Board of Health or its agents or other Town authorities acting in an official capacity to inspect his/her place of business and his/her work at any reasonable time.
17. Hearing in Case of Suspension or Revocation of Permit: A person whose Permit has been suspended or revoked, may within ten (10) days of the suspension or revocation of his Permit request, in writing, a hearing upon the cause or causes of such suspension or revocation. The Board of Health shall set a time and place for said hearing.
18. Residential Establishments: Any person seeking a permit for the conduct of massage in his or her home shall designate an area used specifically for such purpose. It shall be enclosed to provide sufficient privacy. All applications for residential establishments shall be accompanied by a letter from the Department of Code Enforcement stating the proposed establishment is in compliance with all applicable zoning laws.

19. Variances: The Board of Health may, upon application therefore, or upon its own initiative, grant such exemptions or exceptions from the requirements of these regulations as it determines are authorized by law and will not result in undue hazard to public health and safety.
20. Penalties: Whoever violates any provision of these rules or regulations shall be punished by a fine of not more than one hundred (\$100) dollars.
21. Severability: If any section, paragraph, sentence, clause or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect, and to this end the provisions of these regulations are hereby declared severable.

Any establishment whose application for a permit has been denied, suspended or revoked may request a hearing before the Board of Health by submitting a written request within ten (10) days of said denial, suspension, or revocation. The Board of Health shall set a time and place for said hearing within fourteen (14) days of receipt of the request.

Any person may submit a written request to the Board of Health for a variance in the application of any provision of these rules and regulations when the enforcement thereof would do manifest injustice. The Board of Health shall respond in writing within thirty (30) days.

Effective Date: Upon publication.

Adopted by vote: March 12, 1973

Amended by vote: December 11, 1988, April 22, 1992, June 9, 1992 and March 8, 1993, April 17, 2003

**Milk and Cream Container Coverings**

**Town of Danvers, Massachusetts 01923**

The following regulation was adopted by vote of the Danvers Board of Health on December 11, 1989, in accordance with the provisions of Section 16J of Chapter 94 of the Massachusetts General Laws as amended, and for the protection of public health and safety.

There shall not be sold, exchanged or delivered in the Town of Danvers any milk, skimmed milk, or cream in a container whose pouring surface is not covered to prevent exposure to contamination.

C. Everett Elliott, Chairman  
Anthony S. Patton, M.D.  
Edmund J. Kowalski, R. Ph.

Adopted as voted: December 11, 1989  
Published in the Danvers Herald, Danvers, MA  
Filed with DEP/DWPC: January 29, 1990

**Pasteurization**

**Town of Danvers, Massachusetts 01923**

No person, firm or corporation shall sell, or offer for sale, hold possession with intent to sell, exchange or deliver any milk or cream in the Town of Danvers unless such milk or cream is certified according to the provisions of the law, or pasteurized as provided in Chapter 94, Section 1 of the General Laws. This regulation shall not apply to milk intended to be delivered for the purpose of pasteurization.

Andrew Nichols III, M.D., Chairman  
C. Everett Elliott  
William H. Crosby

Adopted by vote: July 2, 1951  
Published in the Danvers Herald, Danvers, MA: July 12, 1951  
Filed with the DEP/DWPC: December 1, 1989

**Placement of Plumbing Fixtures**

**Town of Danvers, Massachusetts 01923**

No plumbing fixture shall be installed below the elevation of the rim of such adjacent sewer manhole as shall be determined by the inspector of plumbing of the Town of Danvers, unless such fixture or fixtures shall be protected against the back flow of sewage by a back flow valve and a gate valve for each residential unit and installed of such quality and in such manner as to satisfaction of the said inspector of plumbing. The aforesaid gate valve or valves shall be accessible for the use of the occupant or occupants of the residential unit.

Andrew Nichols III, M.D., Chairman  
Richard B. Staples  
C. Everett Elliott

Effective: Upon Publication  
Adopted by vote: January 12, 1970  
Published in the Danvers Herald, Danvers, MA: January 22, 1970  
Filed with DEP/DWPC: February 22, 1990

## **Private Wells**

### **Town of Danvers, Massachusetts 01923**

Private wells installed to serve as the source of drinking water for any person or persons shall be not less than one hundred (100) feet in depth, measuring from the ground surface to the level of intake water from the aquifer, and shall be sealed with cement grout or equivalent at an impervious soil layer between the ground surface and the level of the aquifer from which water is being drawn.

The Board of Health may at its discretion, waive the one hundred (100) foot depth requirement on application, if an owner or applicant can substantiate that the well from which the water is to be drawn, is in fact the equivalent of a deep water well.

Richard B. Staple, Chairman  
C. Everett Elliott  
Anthony S. Patton, M.D.

Effective: June 29, 1979  
Adopted by vote: May 14, 1979  
Published in the Danvers Herald, Danvers, MA: June 28, 1979  
Filed with the DEP/DWPC: January 8, 1990

## **Regulation of the Installation of Wells**

### **Town of Danvers, Massachusetts 01923**

These regulations are adopted by the Danvers Board of Health for the protection of the public health and as authorized by MGL, Chapter 111, Section 31.

1. **Definition:** Well or water well. Any hole or shaft constructed into the ground for the purpose of injecting or extracting water and other fluids, or to monitor ground water levels and water quality. This definition shall not include wells used to de-water excavations or to stabilize hillsides or earth embankments on a temporary basis.

**Well Driller:** Any person, association, partnership, company, corporation or trust that constructs a well. The person providing immediate field supervision of the well construction, and responsible for the field operation, equipment, materials, personnel and quality of workmanship. The registered individual authorized to drill or dig wells in the Commonwealth.

2. In addition to the "Driller's Report" if required by 313 CMR 3.01 (5), the Well Driller shall obtain a permit from the Danvers Board of Health for the installation in Danvers of a well or water well prior to such installation. The application for such permit shall be on a form supplied to the Well Driller by the Danvers Board of Health and shall be accompanied by a proper site plan(s) of the area(s) for well installation.
3. No well shall be installed closer than fifty (50) feet from a septic tank. One hundred (100) feet from a subsurface sewage leaching facility; ten (10) feet from a building sewer if all piping is constructed of durable corrosion resistant material with water tight joints, or fifty (50) feet if any other type of pipe is used. One hundred (100) feet from a privy. Ten (10) feet from all property lines.
4. There shall be a fee for this permit as may be set from time to time by vote of the Danvers Board of Health.
5. These regulations shall be in effect upon publication.

C. Everett Elliott, Chairman  
Anthony S. Patton, M.D.  
Edmund J. Kowalski, R. Ph.

Effective date: Upon Publication  
Adopted by vote: December 10, 1990  
Published in the Danvers Herald, Danvers, MA: December 20, 1990  
Filed with the DEP/DWPC: January 15, 1991

## **Regulation of the Danvers Board of Health Restricting the Sale of Tobacco Products**

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

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat<sup>1</sup>;

Whereas among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station<sup>2</sup>;

Whereas nationally in 2009, 72% of high school smokers and 66% of middle school smokers were not asked to show proof of age when purchasing cigarettes<sup>3</sup>;

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin<sup>4</sup> and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development<sup>5</sup>;

Whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major public health problem;

Whereas research has shown that raising the minimum legal drinking age to 21 has reduced alcohol consumption among youth and protected drinkers from long-term negative outcomes in adulthood, including alcohol and other drug dependence<sup>6</sup>;

More than 80 percent of all adult smokers begin smoking before the age of 18; and more than 90 percent do so before leaving their teens<sup>7</sup>

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<sup>1</sup> Center for Disease Control and Prevention, (CDC) (2012), *Health Effects of Cigarette Smoking Fact Sheet*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm).

<sup>2</sup> CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (Morbidity and Mortality Weekly Report (MMWR) 2010: 59, 11 (No. SS-55)) Retrieved from: <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

<sup>3</sup> CDC Office of Smoking and Health, National *Youth Tobacco Survey, 2009*. Analysis by the American Lung Association (ALA), Research and Program Services Division using SPSS software, as reported in “Trends in Tobacco Use”, ALA Research and Program Services, Epidemiology and Statistics Unit, July 2011. Retrieved from: [www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf](http://www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf).

<sup>4</sup> CDC (2010), *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/sgr/2010/](http://www.cdc.gov/tobacco/data_statistics/sgr/2010/).

<sup>5</sup> U.S. Department of Health and Human Services. 2014. *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

<sup>6</sup> DeJong W, Blanchette J 2013. “Case Closed: Research Evidence on the Positive Public Health Impact of the Age 21 Minimum Legal Drinking Age in the United States.” *J. Stud. Alcohol Drugs, Supplement 17*, 108 – 115, 2014.

<sup>7</sup> SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health.



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<sup>8</sup>;

Whereas sales of flavored little cigars increased by 23% between 2008 and 2010<sup>9</sup>; and the top three most popular cigar brands among African-American youth aged 12-17 are the flavored and low-cost Black & Mild, White Owl, and Swisher Sweets;<sup>10</sup>

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>11</sup> largely because these flavored products were marketed to youth and young adults,<sup>12</sup> and younger smokers were more likely to have tried these products than older smokers;<sup>13</sup>

Whereas although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,<sup>14</sup> neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;<sup>15</sup>

Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;<sup>16</sup>

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<sup>8</sup> CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

<sup>9</sup> Delnevo, C., Flavored Little Cigars memo, September 21, 2011, from Neilson market scanner data.

<sup>10</sup> SAMSHA, Analysis of data from the 2011 *National Survey on Drug Use and Health*.

<sup>11</sup> 21 U.S.C. § 387g.

<sup>12</sup> Carpenter CM, Wayne GF, Pauly JL, et al. 2005. “New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies.” *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. “Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands.” *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. “Sweet and Spicy Flavours: New Brands for Minorities and Youth.” *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>13</sup> U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>14</sup> 21 U.S.C. § 387g

<sup>15</sup> Food and Drug Administration. 2011. *Fact Sheet: Flavored Tobacco Products*, [www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf](http://www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf); U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

Whereas the U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students doubled from 2011 to 2012;<sup>17</sup>

Whereas nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;<sup>18</sup>

Whereas in a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one<sup>19</sup>;

Whereas according to the CDC's youth risk behavior surveillance system, 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 14.3% in 2011<sup>20</sup>;

Whereas the 2014 Youth Risk Behavioral Survey (YRBS) results show that 13.8% of Danvers high school students had smoked cigars, cigarillos, or little cigars on at least one day of the 30 days before the survey, compared with 14.5 % in 2012 and 18.9% in 2010.

Whereas survey results show that more youth report that they have smoked a cigar product when it is mentioned by name, than report that they smoked a cigar in general, indicating that cigar use among youth is underreported<sup>21</sup>;

Whereas 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<sup>22</sup>;

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<sup>16</sup> King BA, Tynan MA, Dube SR, et al. 2013. "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students." *Journal of Adolescent Health*. [Article in press], [www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract](http://www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract).

<sup>17</sup> Centers for Disease Control & Prevention. 2013. "Electronic Cigarette Use Among Middle and High School Students—United States, 2011–2012," *Morbidity and Mortality Weekly Report (MMWR)* 62(35): 729–730.

<sup>18</sup> Cameron JM, Howell DN, White JR, et al. 2013. "Variable and Potentially Fatal Amounts of Nicotine in E-cigarette Nicotine Solutions." *Tobacco Control*. [Electronic publication ahead of print], <http://tobaccocontrol.bmj.com/content/early/2013/02/12/tobaccocontrol-2012-050604.full>; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>19</sup> Food and Drug Administration, *Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA*, available at: <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>.

<sup>20</sup> CDC (2011) *Youth Risk Behavior, Surveillance Summaries* (MMWR 2012: 87 (No SS-61)). Retrieved from: [www.cdc.gov](http://www.cdc.gov); and CDC (2003), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2004: 53, 54 (No. SS-02)).

<sup>21</sup> 2010 Boston Youth Risk Behavior Study. 16.5% of Boston youth responded that they had ever smoked a fruit or candy flavored cigar, cigarillo or little cigar, while 24.1% reported ever smoking a "Black and Mild" Cigar.

<sup>22</sup> Commonwealth of Massachusetts, Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009. Retrieved from: [http://www.mass.gov/Eeohhs2/docs/dph/tobacco\\_control/adolescent\\_tobacco\\_use\\_youth\\_trends\\_1993\\_2009.pdf](http://www.mass.gov/Eeohhs2/docs/dph/tobacco_control/adolescent_tobacco_use_youth_trends_1993_2009.pdf).

Whereas 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%<sup>23</sup>;

Whereas nicotine levels in cigars are generally much higher than nicotine levels in cigarettes<sup>24</sup>;

Whereas Non-Residential Roll-Your-Own (RYO) machines located in retail stores enable retailers to sell cigarettes without paying the excise taxes that are imposed on conventionally manufactured cigarettes. High excise taxes encourage adult smokers to quit<sup>25</sup> and high prices deter youth from starting.<sup>26</sup> Inexpensive cigarettes, like those produced from RYO machines, promote the use of tobacco, resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of imposing high excise taxes on tobacco;

Whereas it is estimated that 90% of what is being sold as pipe tobacco is actually being used in Non-Residential RYO machines. Pipe tobacco shipments went from 11.5 million pounds in 2009 to 22.4 million pounds in 2010. Traditional RYO tobacco shipments dropped from 11.2 million pounds to 5.8 million pounds; and cigarette shipments dropped from 308.6 billion sticks to 292.7 billion sticks according to the December 2010 statistical report released by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB)<sup>27</sup>;

Whereas the sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;

Whereas educational institutions sell tobacco products to a younger population, who is particularly at risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

Whereas the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means”<sup>28</sup>.

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<sup>23</sup> Ringel, J., Wasserman, J., & Andreyeva, T. (2005) *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*. American Journal of Public Health, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in *Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?*, J. Prim. P. 2011, Aug: 32(3-4):161-70. Retrieved from: [www.ncbi.nlm.nih.gov/pubmed/21809109](http://www.ncbi.nlm.nih.gov/pubmed/21809109).

<sup>24</sup> National Institute of Health (NIH), National Cancer Institute (NCI) (2010). *Cigar Smoking and Cancer*. Retrieved from: <http://www.cancer.gov/cancertopics/factsheet/Tobacco/cigars>.

<sup>25</sup> Eriksen, M., Mackay, J., Ross, H. (2012). *The Tobacco Atlas*, Fourth Edition, American Cancer Society, Chapter 29, p. 80. Retrieved from: [www.TobaccoAtlas.org](http://www.TobaccoAtlas.org).

<sup>26</sup> Chaloupka, F. J. & Lippman, P. D., NIH, NCI (2001). *The Impact of Price on Youth Tobacco Use, Smoking and Tobacco Control Monograph 14: Changing Adolescent Smoking Prevalence* 193 – 200. Retrieved from: <http://dcccps.nih.gov/TCRB/monographs/>.

<sup>27</sup> TTB (2011). *Statistical Report – Tobacco* (2011) (TTB S 5210-12-2010). Retrieved from: <http://www.ttb.gov/statistics/2010/201012tobacco.pdf>.

<sup>28</sup> Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).

Now, therefore it is the intention of the Town of Danvers Board of Health to regulate the sale of tobacco products.

**B. Authority:**

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

**C. Definitions:**

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

**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.

**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.

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

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

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

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

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

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

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

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

**Health Care Institution:** An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail

establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

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

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

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

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

**Retail Tobacco Store:** An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, 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 minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Town of Danvers Board of Health.

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

**Schools:** Public or private elementary or secondary schools.

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

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

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

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

#### **D. Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited:**

1. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age; or not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Danvers is 21.

## 2. Required Signage

- a. 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 [city/town] Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Danvers Board of Health 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 tobacco products, as defined herein, at retail shall conspicuously post a sign stating that “The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited.” The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

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

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

## **E. Tobacco Product Sales Permit:**

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

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Town of Danvers 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 product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.

3. Each applicant who sells tobacco products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued.

4. The fee for a Tobacco Product Sales Permit shall be determined by the Town of Danvers Board of Health annually.

5. A separate permit is required for each retail establishment selling tobacco products, as defined herein.

6. Each Tobacco Product Sales Permit shall be displayed at the retail establishment in a conspicuous place.

7. No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco products, as defined herein, until such employee reads this regulation and federal and state laws regarding the sale of tobacco products 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 and federal laws.

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

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

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

11. A Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within 500 feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises. Applicants who purchase an existing business that holds a current Tobacco Product Sales Permit at the time of the sale of said business may apply, within sixty (60) days of such sale, for the permit held by the Seller if the Buyer intends to sell tobacco products, as defined herein.

#### **F. Cigar Sales Regulated:**

1. No person shall sell or distribute or cause to be sold or distributed a single cigar.

2. No person shall sell or distribute or cause to be sold or distributed any original package of two or more cigars, unless such package is priced for retail sale at \$5.00 or more.

3. This Section shall not apply to:

a. The sale or distribution of any single 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 Danvers.

4. The [city/town] Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

**G. Prohibition of the Sale of Blunt Wraps:**

No person or entity shall sell or distribute blunt wraps in Danvers.

**H. Free Distribution and Coupon Redemption:**

No person shall distribute, or cause to be distributed, any free samples of tobacco products, as defined herein. No means, instruments or devices that allow for the redemption of any tobacco products, as defined herein, 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.

**I. Out-of-Package Sales:**

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

**J. Self-Service Displays:**

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

**K. Vending Machines:**

All vending machines containing tobacco products, as defined herein, are prohibited.

**L. Non-Residential Roll-Your-Own Machines:**

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

**M. Prohibition of the Sale of Tobacco Products by Health Care Institutions:**

No health care institution located in the Town of Danvers shall sell or cause to be sold tobacco products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products; except those wholesalers licensed under chapter sixty two, section sixty seven of the Massachusetts General Laws may sell tobacco for wholesale only to resellers who possess a valid Massachusetts Tobacco Retailer License and who are registered through the Department of Revenue to collect sales tax. Additionally, tobacco products sold by wholesalers shall be stored away from the retail sales area and not visible to non-resellers.

**N. Prohibition of the Sale of Tobacco Products by Educational Institutions:**

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

**O. Violations:**

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:

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



- b. In the case of a second violation within 24 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.
- c. In the case of three or more violations within a 24 month period, a fine of three hundred dollars (\$300.00) and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days.
- d. In the case of further violations or repeated, egregious violations of this regulation within a 36 month period, the Board of Health may revoke a Tobacco Product Sales Permit.

2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.

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

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

**P. 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.

**Q. Enforcement:**

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

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

**R. Severability:**

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

**S. Effective Date:**

This regulation was enacted on June 4, 2015 and shall take effect on July 1, 2015.

## Regulations Affecting Smoking In Certain Places (Environmental Tobacco Smoke)

### A. 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, Foege W, "Actual Causes of Death in the United States", JAMA 1993 270:2207-2212); and whereas in 2000, the Public Health Service's National Toxicology Program listed environmental tobacco smoke as a known human carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997); now, therefore, the Danvers Board of Health recognizes the right of those who wish to breathe smokefree air and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in workplaces.

**B. Authority: This regulation is promulgated under the authority granted to the Danvers Board of Health under Massachusetts General Laws Chapter 111, Section 31 that "[b]oards of health may make reasonable health regulations."**

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

**Bar:** An adult-only establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Revenue generated from the serving of alcoholic beverages must be equal to or greater than eighty percent (80%) of the total combined revenue generated by the service of such beverages and food. Revenue figures to be considered as evidence for the purpose of this regulation are those used in calculating the meal tax amount required to be filed with the Massachusetts Department of Revenue for the preceding year.

**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.

**Board:** The Board of Health of the Town of Danvers.

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

**Employer:** A person, partnership, association, corporation, trust, or other organized group of individuals, including the Town Danvers or any agency thereof, which utilizes the services of one (1) or more employees.

**Enclosed:** 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.

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

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

**Public place:** Any building, facility or vehicle owned, leased, operated or occupied by the municipality, including school buildings or grounds; any enclosed area open to the general public including, but not limited to, retail stores, retail food

stores, libraries, museums, theaters, banks, laundromats, indoor sports arenas, auditoriums, inn/hotel/motel lobbies, private and public educational facilities, shopping malls, common areas of residential buildings, public restrooms, lobbies, staircases, halls, exits, entrance ways, elevators accessible to the public and licensed child-care locations.

**Retail Food Store:** Any establishment commonly known as a supermarket, grocery store, bakery or convenience store, or any other establishment in which the primary activity is the sale of food items to the public for off-premises consumption.

**Retail Store:** Any establishment whose primary purpose is to sell or offer for sale to consumers any goods, wares, merchandise, articles or other things.

**Retail Tobacco Store:** Any establishment whose primary purpose is to sell or offer for sale tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental and neither possesses nor is required to possess a retail food permit.

**Smoking:** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

**Town:** The Town of Danvers.

**Workplace:** Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer.

**D. Smoking Prohibited:**

1. Smoking is prohibited in all workplaces and all public places.
2. It shall be unlawful for any employer or other person having control of the premises upon which smoking is prohibited by this regulation, or the business agent or designee of such person, to permit a violation of this regulation.

**E. Posting notice of prohibition:**

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 Danvers Board of Health or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) and comparable in size to the sign provided by the Massachusetts Department of Public Health and available from the Danvers Board of Health.

**F. Exceptions:**

Notwithstanding the provisions of Paragraph D of this regulation, smoking may be permitted in the following places and/or circumstances:

1. Private residences, except those portions used as a child care or health care office when operating as such.
2. Hotel and motel rooms rented to guests that are designated as "smoking rooms", provided that at least 75% of the rooms be smokefree at all times. A room so assigned shall have signs posted indicating that smoking is allowed therein and shall have self-closing doors. No change in room designations shall take place without prior written approval of the Board of Health.
3. Private clubs if all employees are members. When a private club is open to the general public, that portion of said establishment open to the general public must be smokefree, separately enclosed and shall have self-closing doors.
4. Private or semiprivate rooms of nursing homes and long term care facilities, which are separately ventilated, occupied by one (1) or more patients, and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.

5. Retail tobacco stores, provided such establishments prohibit entry to persons under the age of eighteen (18) at all times, and that such establishments conspicuously post signs at all entrances which warn patrons of the dangers of environmental tobacco smoke.
6. Open-air outdoor or sidewalk seating, provided that a) said area is not artificially heated or cooled; b) said area is not enclosed, except for one side which may adjoin the building; and c) the outdoor space and the indoor space are, where they adjoin, separated by a solid wall and self-closing doors such that smoke cannot enter the indoor space.

H. Enforcement:

This regulation shall be enforced by the Board of Health and its designees.

One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation. Any citizen who desires to register a complaint under this regulation may request that the Board of Health initiate an investigation.

I. Non-Criminal Disposition:

Whoever violates any provision of this regulation, the violation of which is subject to a specific penalty, 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. Non-criminal disposition authority can be found at Danvers Town Hall

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

Penalty: \$50.00 for the first offense  
\$100.00 for the second offense within 24 months of the date of the first violation  
\$250.00 for the third or subsequent offense within 24 months of the current violation, including the current violation

Enforcement: The Danvers Board of Health and its designees shall enforce this regulation. One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation. Any citizen who desires to register a complaint under this regulation may request that the Board of Health initiate an investigation.

J. Severability:

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

K. Conflict with Other Laws or Regulations:

Notwithstanding the provisions of the foregoing Paragraph D of this regulation, nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire, health or other regulations.

L. Effective Date:

These regulations shall be effective as of January 2, 2004

## **Requirement of a Registered Sanitarian for the design of Food Establishments**

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

**Whereas:** CDC estimates that 76 million people get sick, more than 300,000 are hospitalized, and 5,000 Americans die each year from foodborne illness.

**Whereas:** Sanitarians administer environmental health programs for both public and private agencies and organizations in food protection and safety, water protection, air quality, noise, industrial and land pollution, sewage disposal, hazardous and toxic substances, solid waste management and institutional health.

**Therefore:** Additional precautions must be undertaken to ensure the protection of public health through the sanitary and proper design of all new and remodeled food establishments.

### **B. Authority**

This regulation is promulgated under the authority granted to the Danvers Board of Health under Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.”

### **C. Definitions**

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

(1) Board: The Board of Health of the Town of Danvers.

(2) Food Establishment: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

This includes;

- (i) satellite or catered feeding location; catering operation if the operation provides food directly to the consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution or food bank; and
- (ii) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or deliver service that is provided by common carriers.

(3) Person: Any individual, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the business agents or designees of any of the foregoing.

(4) Sanitarian: An individual, licensed by the Commonwealth of Massachusetts as a Registered Sanitarian as described in 255 CMR 2.000 through 5.000 and whose license is current and in good standing.

### **D. Approval of Plans**

When a plan is required as designated in the 1999 FDA Food Code, Section 8-201.11, sub-sections A through C, said plan shall be stamped and signed by a Registered Sanitarian and submitted to the Board for approval. The aforementioned stamp and signature shall attest to the proper and sanitary design of

the proposed food establishment and compliance with section 8-201.12, sub-sections A through F of the 1999 FDA Food Code.

**E. Enforcement:**

Failure to submit plans that have been stamped and signed by a Sanitarian shall result in denial of approval of said plans.

**F. Variance**

1. The Board of Health may vary the application of any provision of any of these regulations with respect to any particular case when the Board of Health finds the enforcement thereof would do manifest injustice.
2. Every request for a variance shall be made in writing to the Board of Health and shall state the specific variance sought and the reasons thereof.
3. Any variance granted must be in writing with a copy available to the public at all reasonable hours in the office of the Town Clerk and in the office of the Board of Health. Any variance granted must be posted on the premises in a prominent location for the duration that the variance is in effect.

**G. Severability**

1. If any section, paragraph, sentence, clause, phrase, or word of this regulation is declared invalid for any reason, that decision will not be applicable to the remaining portions of these regulations.

**H. Effective Date**

This regulation shall take effect on July 1, 2005.

Town of Danvers  
Board of Health  
1 Sylvan St. - Town Hall Office  
Danvers, MA 01923

Linda C. Carroll, Chairman  
Edmund Kowalski  
Robert Kellard, M.D.

(Published in the Danvers Herald)

## **Restriction of Cats**

### **Town of Danvers, Massachusetts 01923**

In accordance with the authority of General Laws, Chapter 111, Section 31, and Chapter 111, Section 122, and in accordance therewith and in the interest of and for the preservation of public health, the Danvers Board of Health hereby adopts the following regulations governing the keeping of cats and kittens.

1. No person, firm or corporation shall keep within the Town, in any building or on any premises on which he may be the owner, lessee, tenant or occupant, any more than ten (10) cats and/or kittens for a period of time exceeding six (6) weeks except when such person, firm or corporation shall be permitted by the Board of Health as an establishment for the keeping/sale of cats/kittens.
2. A person, firm or corporation seeking to be permitted by the Danvers Board of Health as an establishment for the keeping/sale of cats/kittens shall make application for such permit on a form supplied by the Board of Health, which shall be accompanied by the following documents.
  - A. A letter from the Building Inspector/Manager of Code Administration, Town of Danvers, stating that the use of the proposed premises for the keeping/sale of cats is allowed.
  - B. A letter from the applicant stating the anticipated use of the premises, the approximate maximum numbers and types and species of animals, and the means of providing proper sanitation of holding areas, cages, and other facilities and for the storage and disposal of waste products. The application shall be accompanied by a plan of the entire premises shown on sheets appropriate for filing with the application form.

C. Everett Elliott, Chairman  
Anthony S. Patton, M.D.  
Edmund J. Kowalski, R. Ph.

Effective date: Upon publication  
Adopted by vote: January 14, 1991  
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Filed with the DEP/DWPC: February 5, 1991



## **Subdivision of Land**

### **Town of Danvers, Massachusetts 01923**

A preliminary and/or a final plan of any subdivision of land, submitted for approval, as provided in the subdivision control law, to the Town of Danvers, after the date of publication of this regulation shall be deemed disapproved by the Board of Health of the Town of Danvers, unless the municipal sewer will be made available to the buildings to be constructed on the lots of said subdivision. If the municipal sewer will be made available for only a portion or portions of a subdivision, the Board of Health may approve said portion or portions.

Andrew Nichols, III, M.D., Chairman  
C. Everett Elliott  
Richard B. Staples

Adopted by vote: March 2, 1967  
Published in the Danvers Herald, Danvers, MA: March 2, 1967  
Filed with the DEP/DWPC: January 8, 1990

**Swimming Pool - Public and Semi-Public**

**Town of Danvers, Massachusetts 01923**

In accordance with Chapter 111, Section 31, General Law of the Commonwealth of Massachusetts and 105 CMR 400.000, the following regulations are promulgated for the protection of public health: Reference 105 CMR 435.23, while open to the public, each public swimming pool shall be supervised by one or more lifeguards holding current Red Cross Senior Lifesaver's Certificates, National YMCA Senior Lifesaver's Certificates, or equal. While in use, each semi-public swimming pool and each wading pool shall be supervised by a legal adult who is capable of affecting a rescue of any swimmer or wader. Unless a semi-public swimming pool has a qualified lifeguard actively present and supervising, the pool shall be closed to use for the period of 12:00 midnight until 8:00 A.M.

C. Everett Elliott, Chairman  
Anthony S. Patton, M.D.  
Edmund J. Kowalski, R. Ph.

Adopted by vote: July 13, 1987  
Published in the Danvers Herald, Danvers, MA: July 23, 1987  
Filed with the DEP/DWPC: January 29, 1990

**CHAPTER XXVII**  
**NON-CRIMINAL DISPOSITION OF CERTAIN VIOLATIONS**

**Section 1: Authority.** In accordance with the provisions of Massachusetts General Law, Chapter 40, Section 21D, certain violations of the following listed by-laws or rules or regulations of municipal officials, boards, or departments may be enforced pursuant to said Section 21D as an alternative to initiating criminal proceedings.

**Section 2: Enforcement.** Non-criminal Disposition, when implemented, shall be enforced by the person(s) so designated in Section 4 below. The procedures of enforcement shall be in accordance with the provisions of Massachusetts General Law, Chapter 40, Section 21D.

**Section 3: Penalties.** The specific penalties for violation(s) of the applicable by-laws, rules or regulations shall be listed in Section 4 below.

**Section 4: Applicable By-laws, Rules or Regulations.**

**Section 4A: Zoning By-laws.** Notwithstanding the Authority for enforcement and penalties prescribed in the Town of Danvers Zoning By-laws and the provisions of Massachusetts General Law, Chapter 40A, the provisions of said by-law may be enforced by the Inspector of Buildings or Local Inspector by noncriminal complaint. Each day of violation shall constitute a separate offense. The penalty for violation(s) shall be as follows: (AUTH: ARTICLE 36, TM 5/15/95)

|   |                                |
|---|--------------------------------|
| 1 <sup>st</sup> Offense                     | Warning                        |
| 2 <sup>nd</sup> Offense                     | Twenty-five Dollars (\$25.00)  |
| 3 <sup>rd</sup> Offense                     | Fifty Dollars (\$50.00)        |
| 4 <sup>th</sup> and Each Subsequent Offense | One Hundred Dollars (\$100.00) |

(AUTH: ARTICLE 6, TM 6/20/88)

**Section 4B: Control of Tobacco Products on School Property.** Notwithstanding the Authority for enforcement and penalties prescribed in Chapter 111, Section 31 of the Massachusetts General Laws and the Town of Danvers Board of Health Regulations Affecting Smoking in Certain Places and Youth Access to Tobacco, the provisions of said Regulation may be enforced on school property by a duly appointed agent of the Board of Health by non-criminal complaint. The penalties for violations shall be consistent with those of Section 4A. (AUTH: ARTICLE 6, TM 10/30/95)

**Section 5:** Rules or Regulations of the Board of Health may be enforced by the Public Health Director by means of non-criminal citation pursuant to M.G.L. Ch. 40, §21D. Each day of violation shall constitute a separate offense. Violations of such Rules and Regulations cited pursuant to non-criminal process shall be subject to the following schedule of penalties:

|                 |                 |
|-----------------|-----------------|
| “First Offense: | Warning         |
| Second Offense: | \$ 25.00 fine   |
| Third Offense:  | \$ 50.00 fine   |
| Fourth Offense: | \$100.00 fine.” |

(AUTH: ARTICLE 37, TM 5/19/97)