

## **BOARD OF HEALTH REGULATIONS WENDELL, MASSACHUSETTS 01379**

The WENDELL BOARD OF HEALTH has adopted the following regulations concerning wells and underground disposal system construction as of July 23, 2001. These regulations replace the regulations concerning wells and underground disposal system construction, which had been passed in 1988, 1996 and 1999. These regulations were amended on March 24, 2003, July 26, 2004 and January 24, 2006.

### **I. A. AUTHORITY**

These regulations shall be effective on and after July 23, 2001, and so remain until modified or amended by the Wendell Board of Health. The Board of Health enacts them under the authority, which includes but is not limited to one or more of the following: MGL Ch. 111, sections 31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 11.02 and 310 CMR 15.000.

### **B. PROCEDURE**

Public hearings on Sections I through Section XIV of these regulations were held on July 11, 2001 and June 18, 2001. First publication of notice of public hearing was made on May 26, 2001 in the Athol Daily News and on May 30, 2001, 2001 in the Greenfield Recorder, and second notification was made on June 2, 2001 in the Athol Daily News and on June 4, 2001 in the Greenfield Recorder. Sections I through Section XIV of these regulations were adopted at a regularly scheduled meeting of the Wendell Board of Health on July 23, 2001. Publication of notice of adoption was made on August 9, 2001 in the Athol Daily News and the Greenfield Recorder. Section V was amended on March 24, 2003 per the procedure followed in Section XXVIII, amendments were made to Section IV, B(2), B(3), B(4), Section V, Section VI, B, C, D, G, on July 24, 2004. First publication of notice of public hearing was made on June 14, 2005 in the Athol Daily News and in the Greenfield Recorder, and second notification was made on June 21, 2005 in the Athol Daily News and in the Greenfield Recorder. Public Hearings on sections were held on June 28, 2005 and July 12, 2005. Changes to sections I, IV, V and VI of these regulations were adopted at a regularly scheduled meeting of the Wendell Board of Health on January 24, 2006.

### **C. PURPOSE**

These Regulations of the Wendell Board of Health are enacted for the purpose of protection of the citizens of the Town of Wendell and also the protection of the environment. Local regulations are also necessary for purposes of efficient administration and management, as well as for additional guidance in the process of construction and repair of septic systems. These regulations do not conflict with Title 5, but rather complement them, and provide additional guidance and protection.

The Town of Wendell derives 100% of its water supply from ground water, which supplies both the public water systems and individual on-site wells. Ground water also contributes a significant portion to the base-flow of surface water creeks, streams and rivers. The ground water of the Town of Wendell, and the surface waters that can, at times, contribute to the ground water, constitute its water supply. A significant portion of the Town of Wendell is within the Metropolitan District Commission's Quabbin Reservoir watershed, a public water supply area. Therefore, these regulations shall apply to any subsurface wastewater disposal system located within the Zone of Contribution of a public water supply well, located in an area of private well supplies, located within the watershed of all potential municipal water supplies, any other pond in the Town of Wendell, or located within the watershed of any stream which drains into said lakes, ponds, or reservoirs.

These regulations have been adopted to protect the water supplies of the residents of Wendell from excessive contamination of nitrate and other harmful chemicals resulting from the subsurface discharge of wastewater effluent. Nitrate contamination of drinking water is a serious public health problem. Nitrate also may serve as an indicator of other groundwater degradation associated with the use of household and industrial chemicals, pesticides, solvents, and other toxic substances. Therefore, the presence of those other substances may be presumed to be present also, when more than natural background levels of nitrate occur. Subsurface wastewater disposal, without nitrogen removal, is a major source of nitrate-nitrogen loading in the ground water and surface waters.

These regulations shall also protect surface and ground water from excessive nitrate-nitrogen and other nutrient loading and will retard the process of eutrophication of the lakes and ponds. By requiring sufficient dilution of nitrates as well as these other byproducts of human activity, they may be decreased to a level that does not constitute a threat to the public health. Adequate land area surrounding a subsurface sewage disposal system will result in the dilution of the subsurface sewage discharge to levels of contaminants that will not constitute a threat to public or environmental health.

## II. DEFINITIONS

Mound System -- For purposes of these regulations, e.g. dosing requirements, a system wherein the Estimated Seasonal High Water Table (ESHWT) is 30” or less as determined by a soil evaluation test performed according to 310 CMR 15.000. For purposes of Title 5 requirements, e.g. excavation and sand-fill requirements, a system whose components extend either wholly or partially above natural grade.

New Construction – a building lot without a pre-existing dwelling.

Water Supply Certificate – A certificate issued by the Board of Health which authorizes the use of a private well as a supply of drinking water.

## III. SETBACKS AND DEPTHS

Setbacks for Wells are found in the following sections: IV.B.2, 3 and 6.

Depth to ESHWT concerning Leach Fields is found in the following section: V.B.

Setbacks for Leach Fields are found in the following sections: VI.B, C, and F.2.

## IV. WELLS

- A. A permit is required from the Board of Health for well construction and destruction, pursuant to an application made to the Board of Health. The Board of Health shall assess an application fee which may be adjusted from time to time. Well drillers shall provide a driller’s log to the Board of Health including well type and rate of flow. In addition, the owner shall provide an “as-built” plan showing the location of the well.

All the results of a Standard Drinking Water Test shall be submitted to the Board of Health before a Water Supply Certificate shall be issued, consisting of tests for all of the following:

Total Coliform Bacteria	Iron	Hardness
Fecal Coliform Bacteria	Manganese	Turbidity
Nitrate	Copper	Conductivity
Nitrite	Sulfate	Total Dissolved Solids
pH	Chloride	Lead
Alkalinity	Sodium	Arsenic

The Board of Health may require testing for additional parameters if potential sources of contamination are present in the vicinity of the well. All tests must be performed by a laboratory licensed for water testing by the State of Massachusetts, and must conform to standards for maximum contaminant levels set by the State which are current at the time of the tests, for the well to be considered potable.

A Water Supply Certificate shall be required for a private well constructed after the effective date of these regulations if that private well is intended to supply drinking water. The Water Supply Certificate must be issued before a building permit can be issued, per MGL Ch. 40, section 54.

B. The following rules apply to the location and construction of all new wells unless the Board of Health grants a specific exemption:

- 1) Well construction and destruction shall be done in accordance with the Department of Environmental Protection's Private Well Guidelines, which are incorporated herein by reference.
- 2) Wells shall be located a minimum of 50 feet from edge line of any public roads or rights of way, and a minimum of 10 feet from any lot line.
- 3) Wells shall be located not less than 100 feet from a sewage disposal field (leaching facility either currently in use, abandoned or reserve area).
- 4) Nothing in these regulations exemptions, nor should be construed as attempting to exempt, applicants from complying with all applicable local, state and federal regulations relating to rivers and wetlands.
- 5) Wells serving multi-unit dwellings and more than one dwelling must have a flow equal to at least 2 gallons per minute per dwelling unit or dwelling as measured by the well driller's test.
- 6) In establishing the location of a well, the applicant shall identify actual or potential sources of contamination, which exist or are planned or proposed to exist within 200 feet of the well site. Wells shall be located to avoid all potential sources of contamination. A map shall be provided to the Board of Health showing all property lines within 200 feet of the well site, including the names, addresses, and phone numbers of the current property owners, as well as any sources of contamination identified during the search for the well locations.

C. Variance for Well Regulations

- 1) The Board of Health may vary the application of any provision of the well regulations with

respect to any particular case. Variances can be approved by the Board of Health for:

- a) Replacement wells for existing dwellings. Every effort must be made to comply with the regulations to the extent feasible considering site specific conditions; and
  - b) Variances can be approved by the Board of Health for new constructions on a limited basis and are limited to issues with site specific conditions.
- 2) Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefor.
  - 3) Any variance granted by the Board shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for denial. A copy of each variance shall be conspicuously posted for thirty (30) days following its issuance and shall be available to the public at all reasonable hours. No work shall be done under any variance until 30 days elapse from its issuance, unless the Board certifies in writing that an emergency exists.
  - 4) Any variance may be subject to such qualification, revocation, suspension, condition, or expiration as is provided in these regulations or as the Board expresses in its grant of the variance. A variance 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.

#### V. PERCOLATION TESTS AND SOIL EVALUATION

- A. Percolation Tests and Soil Evaluations for all new systems may be conducted year-round, except when mottling does not manifest itself in the particular soil type. In such case the Board of Health may require additional testing to determine the Estimated Seasonal High Water Table, such as the installation of a 4" diameter monitoring well. A Wendell Board of Health member or agent shall be present at any percolation test or soil evaluation to be used in the design or repair of a subsurface disposal system. The Board of Health shall assess a fee, which may be adjusted from time to time.
- B. If the observed or the estimated seasonal high water table is 12" or less below ground surface, then the test site is not suitable for new construction.
- C. New systems shall not be sited in areas with percolation rates slower than 30 minutes per inch. Soils with percolation rates between 30 - 60 minutes per inch may only be used for upgrade of existing systems where no other suitable area for sewage disposal is available and where approval has been granted by the Wendell Board of Health.

#### VI. LEACH FIELDS

- A. All subsurface disposal system plan applications submitted to the Board of Health shall be assessed a fee, which may be adjusted from time to time, for the purpose of reviewing said plans.
- B. All proposed locations for leach fields must be reviewed by the Wendell Conservation Commission. Leach fields must be a minimum of 100 feet from wetlands and other surface water features as defined by 310 CMR 15.000 and the Wendell Wetlands Protection Bylaw.

- C. Sewage disposal fields and reserve areas shall be located not less than 100 feet from public and private water supplies, a minimum of 10 feet from any lot line, and a minimum of 25 feet from the edge line of a public road.
  - D. vacant
  - E. In order to maximize equal distribution, when gravity feed systems are used (all systems where effluent is delivered to the distribution box by gravity flow from the septic tank), the maximum leaching trench or pipe length shall not exceed 50 feet as measured from the beginning of the perforations.
  - F. No swales, interceptor drains, curtain drains or other means of lowering the ground water elevation shall be allowed for new construction. Such means may be allowed only for the repair and replacement of existing systems and then only where, in the opinion of the Board of Health, no feasible alternative exists.
  - G. vacant
  - H. Scale of Subsurface Sewage Disposal System Plans shall be no smaller than 1 inch equal 20 feet (1"=20') and shall include:
    - 1) Names, addresses and telephone numbers of the record owner, the applicant and all abutters as determined from the most recent tax list and the registered Engineer or Sanitarian who prepared the plan.
    - 2) Location, dimensions and description of all the following which are located within 200 feet of the proposed sewage disposal system.
      - a) One hundred year flood plains, wetlands, certified vernal pools and all other areas under jurisdiction of the Conservation Commission or the Department of Environmental Protection and waters of the Commonwealth (as defined by 310 CMR 15.000).
      - b) Existing sewage disposal systems, including septic tanks, leaching fields, abandoned systems, and reserve areas.
      - c) Public and private water supplies.
  - I. GARBAGE GRINDERS are not allowed in Wendell.
- VII. COMPOSTING TOILETS
- A. Any person proposing to install a composting toilet shall provide plans of the composting toilet, the name of the installer, a copy of a contract for removal of the waste from a licensed septage hauler or plan clearly indicating method of burial, and appear before the Board of Health to show their understanding of the relevant portions of 310 CMR 15.000. No reduction in leach field size will be allowed by the Board of Health until these criteria are met.
  - B. Any person buying property with a composting toilet and wishing to continue use of such system shall appear before the Board of Health to show their understanding of the system.

- C. Any person proposing to remove a composting toilet shall have a system inspection as defined by 310 CMR 15.000 to prove the adequacy of the leaching system to handle the increased flows.

VIII. INSTALLERS

Any person proposing to install or repair or modify any sewage disposal system in Wendell shall be currently licensed by the Board of Health, which shall assess a licensing fee which may be adjusted from time to time. Any unauthorized work on any portion of a sewage disposal system shall be cause for revocation of the installer's license for a period determined by the Board of Health.

IX. SMALL WASTE WATER TREATMENT PLANTS

The moratorium declared on Small Waste Water Treatment Plants by the Board of Health in its Regulations promulgated in 1988, is hereby revoked.

X. FINAL INSPECTIONS OF SYSTEMS

Final inspections of all newly installed and repaired systems shall be performed by a Board of Health member or agent, for which the Board of Health shall assess an inspection fee which may be adjusted from time to time. Part of the inspection for new septic tanks shall include a hydraulically charged test to detect leaks in seams and weep holes. Pump systems shall be water tested for proper functioning.

XI. MONITORING RESULTS

All inspection reports/test results of monitoring systems, e.g. innovative and alternative systems and pressure dosed systems, shall be sent to the Board of Health in addition to any requirements of reporting to the Department of Environmental Protection.

XII. ESTABLISHMENTS OF SPECIAL ACCOUNTS

As provided by MGL Chapter 44, section 53G, the Board of Health may impose reasonable fees for the employment of outside consultants, engaged by the Board of Health, for review of any application submitted to the Board of Health pursuant to the requirements of the Subdivision Control Law, the State Environmental Code, the Wendell Large Development Review Bylaw, or any other state or municipal statute, by-law or regulation, as they may be amended or enacted from time to time.

Funds received by the Board pursuant to this regulation shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health without further appropriation as provided by MGL Ch. 44, section 53G. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the permit application.

The Board of Health shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant and the amount of the fee to be

charged to the applicant. Such notice shall be deemed to have been given on the postmarked date it is mailed or delivered.

The applicant may appeal the selection of the outside consultant to the Selectboard, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Selectboard, and a copy received by the Board of Health, so as to be received within 10 days of the postmarked date of the notice of the selection of the consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

XIII. VARIANCE PROCESS

The process for variance applications to the Board of Health regulations, except as specified in section IV. herein, shall be in accordance with 310 CMR 15.000, including variance requests for local upgrades of existing systems. A consideration for variance requests shall be whether the site is located in or near a potential aquifer or other area of special concern.

XIV. SEVERABILITY

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

**GROUND WATER PROTECTION REGULATIONS  
FOR  
LARGE WASTEWATER TREATMENT SYSTEMS**

XV. REGULATIONS FOR LARGE AND VERY LARGE WASTEWATER TREATMENT SYSTEMS

These regulations apply to wastewater treatment systems treating over 4,000 gallons per day of flow.

XVI. AUTHORITY

Pursuant to its authority under Chapter 111, Section 31 of the Massachusetts General Laws, the Board of Health of the Town of Wendell, Massachusetts, hereby adopts the following regulations as reasonable and necessary for the protection of the health and welfare of the citizens of the Town of Wendell.

XVII. PURPOSE

The purpose of these regulations is to protect the public health and welfare by ensuring that the permitting and operation of large wastewater treatment systems within the boundaries of the Town of Wendell do not result in the contamination of ground water supplies and the release or dispersal of contaminants that may present unacceptable risks to public health and welfare.

These regulations are necessary because waters within the boundaries of the Town of Wendell constitute a sole-source aquifer for both private and public water supplies within the town. A high level of ground water protection is essential to ensuring that the quality of future water supplies are maintained for the highest potential use.

If not adequately monitored and controlled, large wastewater treatment systems discharging into waters within the boundaries of the Town of Wendell could result in the release or dispersal of contaminants into the water column, including surface and subsurface waters. Since the waters within the boundaries of the Town of Wendell are used for many purposes, including bathing, swimming, fishing, potable water supply, agricultural and wildlife, it is the intent of these regulations to minimize human exposure to potential contaminants through dermal contact or by ingestion of the water and/or the organisms in the ground water, aquatic systems or the food chain.

These regulations seek to maintain the chemical, physical and biological integrity of the waters within the boundaries of the Town of Wendell by establishing requirements, standards and procedures to monitor and control activities involving the treatment of large quantities of domestic, commercial and industrial wastewater.

#### XVIII. SCOPE OF APPLICABILITY

Any project or activity that produces or any system that treats greater than 4,000 gallons per day of aggregate wastewater flow within the Town of Wendell shall be subject to these regulations.

#### XIX. DEFINITIONS

The definitions contained in 314 CMR 5.00 and 310 CMR 15.000, as the same may be amended from time to time, are incorporated herein by reference. In addition, for the purposes of these regulations, the following words and phrases shall have the following meanings:

“Board of Health” shall mean the Wendell Board of Health.

“MDEP” shall mean the Massachusetts Department of Environmental Protection.

“Large System” shall mean systems producing between 4,000 and 10,000 gallons per day.

“Very Large System” shall mean systems producing over 10,000 gallons per day.

#### XX. BURDEN OF PROOF

The applicant shall have the burden to demonstrate, by credible evidence, that: (1) the project will meet applicable water quality standards through compliance with 310 CMR 15.00, 314 CMR 5.00, and 314 CMR 6.00, as those regulations may be amended from time to time; and (2) the project, as proposed or through the imposition of reasonable conditions by the Board of Health:

- (a) will not present a significant risk of harm to the health or welfare of any individual or group; and
- (b) will have less demonstrated negative effects on the public health or welfare than any practicable alternative.



XXI. PROCEDURES

Applicants for permits for Large Systems shall provide the Board of Health with six (6) complete copies of the application and supporting documentation.

Applicants for Very Large Systems or Ground Water Discharge Permits under 314 CMR 5.00 shall submit to the Board of Health a complete copy of the application submitted to MDEP pursuant to 314 CMR 5.00 within ten (10) calendar days of submission of the application to MDEP. The applicant shall provide the Board of Health with six (6) complete copies of the application and supporting documentation. If additional information is requested by or provided to the MDEP during the Board of Health review process, said information shall be forwarded to the Board of Health within three (3) calendar days of submission to the MDEP.

In addition, the Board of Health may request that the applicant provide the Board of Health with any information submitted to federal, state or local agencies under the Massachusetts Environmental Policy Act, the Massachusetts Wetlands Protection Act, the Federal Clean Water Act and any other federal, state or local laws, regulations or ordinances, or any other information or data that the Board of Health may reasonably request, insofar as that information pertains to the potential health impacts of the proposed project.

A. The Public Hearing

Within forty-five (45) days of receipt of the application for a Large or Very Large System, the Board of Health shall conduct a public hearing regarding the application. The applicant shall publish notice of the Board of Health hearing in the local newspaper by placing an advertisement, at the applicant's expense, indicating the date, time and location of the Board of Health hearing along with a description of any variance(s) sought from this regulation. Said notice shall be published at least fourteen (14) days prior to the hearing.

Any person filing an application with the Board of Health shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters of the project site. An abutter shall mean the owner of land that shares a common boundary or corner of a project site. Project site shall mean the area owned, controlled or proposed by the applicant in which a project will occur. Ownership shall be determined according to the most recent applicable tax list of the Assessor. Said notification shall be at the applicant's expense, and shall state where copies of the application may be examined and obtained and where information regarding the date, time and place of the public hearing may be obtained. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the Board of Health. Failure to notify all abutters as specified herein shall render the application incomplete.

The Board of Health may request input on the proposal from the Wendell Planning Board, the Wendell Conservation Commission, the Wendell Select Board, MA Department of Environmental Protection (MDEP), and the Metropolitan District Commission (MDC) or their equivalent successors. Any comments by these municipal or state entities shall be provided to the Board of Health in writing by the close of the public hearing. The Board of Health may conduct a site visit, which may or may not be conducted in conjunction with MDEP's site visit.

The public hearing or the commencement thereof may be continued, with the consent of the applicant, to an agreed-upon date, which shall be announced at the hearing.

B. The Decision

The Board of Health shall render a decision to approve or deny the application within 45 days of the close of the public hearing. The decision shall set forth the Board of Health's findings and determinations. The failure of the Board of Health to act within such time period shall not be deemed a constructive approval of the application.

In reviewing the proposal, the Board of Health shall consider if a review is being conducted by MDEP pursuant to 314 CMR 5.00, as the same may be amended. If MDEP is conducting a review, and has not taken any formal action within 45 days after the Board of Health's receipt of the application, the Board of Health, in its sole discretion, may continue the public hearing until the MDEP has made an initial determination on the application. If the proposed system is not subject to a MDEP review process, the Board of Health shall follow the procedure outlined herein.

The criteria and standards contained in 314 CMR 5.00 et seq., as the same may be amended from time to time, are incorporated herein by reference and shall be used by the Board of Health to evaluate applications under this regulation with respect to public health and welfare. The Board of Health shall consider effects on public health and welfare whenever the standards and criteria in 314 CMR 5.00 et seq. refer to other interests (e.g., aquatic ecosystem, bordering or isolated vegetated wetlands or land under water). The Board of Health shall issue an approval for the project if the Board of Health determines that the applicant has met the burden of proof in Section V of this regulation.

The Board of Health may impose conditions as part of any approval including, but not limited to, requirements for design changes, monitoring, testing and public notification during the life of the project, including a condition that a consultant, chosen by the Board of Health at the expense of the applicant, be retained in order to monitor project activities for compliance with the Board's regulations and permit conditions.

If, after the Board of Health has issued its decision, the applicant presents any additional information regarding the project to a federal, state or local agency under the Massachusetts Environmental Policy Act, the Massachusetts Wetlands Protection Act, the Federal Clean Water Act and other federal, state or local laws, regulations or by-laws, the applicant shall provide copies of the same to the Board of Health. The Board of Health may evaluate such additional information to determine whether that information demonstrates that the project could result in significant public health impacts and, if so, the Board may reopen the public hearing to determine whether to impose additional conditions for the protection of public health and welfare.

XXII. FILING FEES

A non-refundable filing fee of two hundred dollars (\$200.00) shall accompany the application submission. The Board of Health may require the applicant to pay a review fee, which may be used by the Board of Health to retain consultant services to evaluate the application and supporting documentation and/or to monitor project activities for compliance with the Board's regulations and permit conditions as specified in Section XII, the Board of Health's Establishment of Special Accounts Regulation.

XXIII. VARIANCE

If an applicant has requested a variance from MDEP in accordance with 314 CMR 5.00 et seq., as the same may be amended, the applicant shall also request a variance from the provisions of this regulation by filing a request with the Board of Health. The variance criteria found in 314 CMR 5.00 et seq., as the same may be amended, are incorporated herein by reference and shall be used by the Board of Health in considering a request for a variance. In implementing this variance provision, the phrase “public health or welfare” shall be substituted for the word “environment”.

#### XXIV. GROUND FOR SUSPENSION AND REVOCATION OF A PERMIT

##### A. Suspension of a Permit

The Board or its staff may summarily suspend a permit pending a hearing on the merits of the question of revocation if, based on the evidence before it, the Board determines that grounds for revocation of a permit exist. The suspension of a permit shall take effect immediately upon service of written notice of such suspension. In lieu of notice of suspension, the Board of Health may notify an applicant in writing of any violation of the Board's regulations or permit conditions for which the Board intends to consider revocation of a permit. Written notice of suspension or intent to revoke shall specify: (1) the grounds upon which the Board of Health shall consider revocation of the permit; (2) that the applicant has three (3) days in which to comply with the Board's regulations or permit conditions; and (3) that if the applicant fails to comply within such three (3) days, that a hearing by the Board regarding the revocation shall be held on a date specified in the notice, which date shall be within fourteen (14) days of the date of the written notice.

A written notice shall be served in the following manner: (1) personally, by any person authorized to serve civil process; or (2) by any person authorized to serve civil process by leaving a copy of the order at the applicant's last and usual place of abode, or (3) by sending a copy of the notice by registered or certified mail, return receipt requested, if within the Commonwealth; or (4) if the last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the premises and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the Town of Wendell.

##### B. Grounds for Revocation of a Permit

The Board may revoke a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation:

- (1) fraud or misrepresentation in obtaining a permit;
- (2) violation of any regulation of the Board of Health governing a large wastewater treatment system or of any condition of a permit issued by the Board of Health approving a project for a large wastewater treatment system;
- (3) failure to pay the Annual License Fee or other fees as assessed by the Board of Health; or
- (4) other just and sufficient cause that the Board determines may cause unacceptable risks to public health and welfare as a result of the project. A permit may be revoked only after a hearing conducted by the Board of Health.

#### XXV. ANNUAL LICENSE FEE AND OTHER FEES

In conformance with these regulations and any conditions required as part of the permitting process, the Applicant/Permitee shall pay an Annual License Fee based on the permitted flow in gallons per day of the treatment facility. The fee rate shall be set by the Board of Health in its fee schedule, as amended from time to time. Nothing in this section, or other parts of this regulation, shall limit the Board of Health from assessing additional reasonable fees on the Applicant or Permitee if needed due to special situations that may arise during the construction and ongoing operation of the facility. Such additional fees shall be itemized and consist of actual expenses incurred by the Board of Health while exercising increased over-site responsibilities due to the special situation. All additional fee assessments shall be made in writing to the Applicant/Permitee.

#### XXVI. MONITORING REQUIREMENTS

All facilities subject to this regulation shall be monitored to the extent necessary to ensure that they meet the purpose of this regulation as listed in Section XVII. Monitoring requirements may be imposed as conditions of the permitting process. Monitoring parameter specifics and analysis frequency shall be based on the size and complexity of the facility, the level of protection required, and the operational compliance of the facility. Additional monitoring requirements may be imposed by the Board of Health at any time if it determines that the existing monitoring scheme is not adequate or if the regular monitoring results are inconsistent or statistically suspect. Nothing in this section or elsewhere in this regulation shall limit the Board of Health from collecting samples at the facility and having said samples analyzed at the Permitee's expense, if the Board determines that the facility is not being operated or monitored in a manner that is consistent with the purposes of this regulation.

#### XXVII. SEVERABILITY

If any section, paragraph, sentence, clause or phrase of this regulation shall be deemed invalid by a court of competent jurisdiction, such decision shall not affect the remaining positions of this regulation, which shall remain in full force and effect and, to this end, the provisions of this regulation are hereby declared severable.

#### XXVIII. EFFECTIVE DATE

This amended regulation was adopted by vote of the Board of Health of the Town of Wendell at public hearing held on March 24, 2003, the effective date of this regulation. Any proposed project for construction and operation of a very large wastewater treatment system for which a permit has not been issued from MDEP as of the effective date shall be subject to this regulation.

A public hearing on Sections XV through Section XXVIII of these regulations was held on March 24, 2003. First publication of notice of public hearing was made on March 10, 2003 in the Athol Daily News and in the Greenfield Recorder, and second notification was made on March 17, 2003 in the Athol Daily News and in the Greenfield Recorder. Sections XV through Section XXVIII of these regulations were adopted at a regularly scheduled meeting of the Wendell Board of Health on March 24, 2003. Publication of notice of adoption was made on April 21, 2003 in the Athol Daily News and April 23, 2003 in the Greenfield Recorder.

A public hearing on Sections I, IV, V and VI of these regulations was held on June 28, 2005 and

continued on July 12, 2005. First publication of notice of public hearing was made on June 14, 2005 in the Athol Daily News and in the Greenfield Recorder, and second notification was made on June 21, 2005 in the Athol Daily News and in the Greenfield Recorder. Changes to sections I, IV, V and VI of these regulations were adopted at a regularly scheduled meeting of the Wendell Board of Health on January 24, 2006.