



TOWN OF HULL BOARD OF HEALTH

Rules and Regulations

**Based on the General Laws of the
Commonwealth of Massachusetts
And Rules and Regulations of the
State Department of Public Health**

By the Hull Board of Health

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CHAPTER 215

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**HEALTH REGULATIONS
O F T H E
TOWN OF HULL**

The Board of Health of the Town of Hull, Massachusetts, acting under the authority of Massachusetts General Laws, Chapter 111, Section 31, the State Sanitary Code, the State Environmental Code and amendments and additions thereto, and by any power thereto enabling, and acting there under and in accordance therewith, have, in the interest of and for the preservation of the public health, duly made and adopted the following regulations.

**CHAPTER 215-2
GARBAGE AND RUBBISH DEFINITIONS**

- SECTION 1.** Garbage is all waste animal, fish, fowl, fruit or vegetable matter produced from or resulting from the use or storage of food for human consumption.
- SECTION 2.** Rubbish is defined as combustible or non combustible solid waste materials including but not limited to such materials as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, mineral matter, glass, crockery, dust, ashes, construction wastes, industrial wastes, commercial wastes, agricultural wastes, abandoned vehicles, street sweepings, bulky wastes, the residue from the burning of wood, coal, coke or other combustible materials and any other unwanted or discarded material.

**CHAPTER 215-3A
STORAGE AND DISPOSAL OF GARBAGE AND RUBBISH**

- SECTION 1.** Plastic bags alone are no longer acceptable for outside storage as a garbage or rubbish container.
- SECTION 2.** All residents/owners/occupants, as required by Chapter II of the State Sanitary Code, must provide watertight, rodent proof cans with tight fitting lids.
- SECTION 3.** The Board of Health may require the placement of a dumpster for a particular business or property, where it is deemed necessary.
- SECTION 4.** Garbage and/or rubbish cannot be placed curbside any earlier than the day of collection.
- SECTION 5.** Containers for garbage and rubbish shall be stored in a regular, easily or found place where collectors may reach them with the least disturbance, undue effort or any hazard. Collectors will not enter dwellings for garbage.

- SECTION 6.** No garbage shall be disposed of within the limits of the Town of Hull except with a written permit from the Board of Health.
- SECTION 7.** The dumping of rubbish on any land in Hull other than in the town landfill, or the use of rubbish as fill is prohibited.
- SECTION 8.** Demolition wastes consisting of concrete or bituminous materials may be used as fill provided the pieces are no larger than two square feet and the material is covered with gravel within two weeks.

CHAPTER 215-3B

REMOVAL, DISPOSAL AND TRANSPORTATION OF GARBAGE, RUBBISH, OFFAL OR OTHER OFFENSIVE SUBSTANCES

- SECTION 1.** No person, firm or corporation shall take from their premises in the Town of Hull, garbage, offal or other offensive substance, or transport through the streets of the Town of Hull any such substances collected within the Town of Hull, unless he shall first have obtained a permit from the Board of Health. Application for such permit shall contain a brief description of the vehicles, which will be used for such transportation, the residence, and business address of the applicant and other such information as the Board of Health may require. All such permits shall expire at the end of the calendar year in which issued and may be revoked by the Board of Health upon receipt of evidence that the nature of the collection or disposal is not in conformity with the requirements of these rules and regulations or such other rules as may be adopted. No permit hereunder shall be transferred except with the approval of the Board of Health.

Fee for said permit will be One Hundred dollars (\$100.00). Fee for this permit to transport or remove garbage and/or rubbish will include the inspection fee of one truck used in said business.

All trucks used for said business within the town must be registered with and inspected by a representative of the Board of Health. Fee for inspecting additional trucks will be ten dollars (\$10.00). (All fees subject to change.)

- SECTION 2.** No person shall transport through the streets of the Town of Hull garbage, offal or other offensive substances collected outside the Town of Hull unless he shall first have registered with the Board of Health by filing with Board a statement of registration. Such statement or registration shall state the places, which the substance is to be transported, a brief description of the vehicle or vehicles, which will be used for such transportation, the residence and business address of the applicant and such other information as the Board may require. No person who has filed such statement of registration shall transport or continue to transport said substances

through the streets of the Town of Hull unless he does so in accordance with these rules and regulations and any other applicable rules and regulations of the Board of Health.

SECTION 3. Vehicles used for transporting garbage, offal or other offensive substances in or through the Town of Hull shall be watertight, and the exterior thereof shall be kept clean at all times. The containers on all such vehicles shall be provided with adequate covers which shall be kept closed and completely covered at all times except when necessarily open to permit the reception of contents.

No open trucks may be used for the purpose of transporting garbage and/or rubbish within the town limits.

SECTION 4. Each person, firm or corporation permitted to collect offal within the Town of Hull shall submit to the Board of Health, a written report monthly, stating the date, location and gallons of each collection.

SECTION 5. All businesses must list on their permit applications a disposal site.

Haulers must agree to provide, if requested, two bulk pick-ups per year; one in the spring and one in the fall.

Haulers agree to encourage recycling at the source of waste creation or at the disposal site.

Haulers agree to have staff exercise care not to damage resident's rubbish cans.

Staff will remove all waste leaving none in the street or at curbside.

SECTION 6. See January 1, 2007 Rules & Regulations Addendum.

CHAPTER 215-4

NUISANCES

- SECTION 1.** The owner or occupant of any building or premises shall keep the same in a clean condition and shall, when ordered in writing by the Board of Health, within a reasonable time specified in the order remove from the premises, or abate, any nuisance, source of filth, or cause of sickness or other danger to the public health existing thereon.
- SECTION 2.** The owner or occupant of any premises abutting on a private way, and having the right to use such a way, shall, when ordered in writing by the Board of Health, within a reasonable time specified in the order, remove or abate from that part of such way adjoining such premises, any substance or condition which is or may become a nuisance, source of filth, cause of sickness, or otherwise a danger to the public health.
- SECTION 3.** No person shall place or cause to be placed in any natural occurring body of water or upon any immediate adjoining land, any refuse or solid matter likely to cause pollution or obstruction to flow. No person shall deposit filth, fish, slops, or offal, upon the surface of the ground. The contents of any private sewage disposal works shall be disposed of at the Hull Water Pollution Control Facility, in accordance with their requirements.
- SECTION 4.** No owner, agent or occupant of any building or premises under his control, shall cause or allow the accumulation therein or thereon of any stagnant water, ashes, rubbish, animal, vegetable or other matter which may become a source of filth, cause of disease or other nuisance in and about such premises.

CHAPTER 215-5

THE PRACTICE OF MASSAGE AND THE CONDUCT OF ESTABLISHMENTS FOR THE GIVING OF MASSAGE, VAPOR, POOLS, SHOWER, OR OTHER BATHS

******Effective January 1, 2008 the Commonwealth of Massachusetts, Board of Registration of Massage Therapy is the regulatory authority for all aspects of the massage therapy profession from individual towns and municipalities in the Commonwealth of Massachusetts******

The following terms give a general description of Section 111, and Sections 51 and 53 of Chapter 140 of the General Laws of the Commonwealth of Massachusetts.

DEFINITIONS: For the purpose of these regulations;

MASSAGE shall mean the manipulation or conditioning of part or parts of the body by manual, mechanical, or other means as a beauty treatment, for purported health or medical treatment or for the purpose of invigoration.

ESTABLISHMENT FOR GIVING. MASSAGE, VAPOR, POOL, SHOWER, OR OTHER BATHS shall mean the office, place of business, or other premises where massage is practiced or where therapeutic or conditioning baths of water, vapor, or other substance is given.

LICENSE REQUIRED AND FEE: No person shall practice massage or conduct an establishment for the giving of massage or vapor, pool, shower, or other baths for hire or reward, or advertise or hold himself out as being engaged in the business of massage or the giving of said baths in the Town of Hull without receiving a license therefore from the Commonwealth of Massachusetts Division of Licensure.

DISPLAY OF LICENSE: Every licensed establishment must display in a conspicuous location the licenses of all the licensees operating in the establishment.

DESIGNATION OF NAME: No licensed person shall operate under any name or conduct his or her business under any designation not specified on his or her license

INSPECTIONS: Every licensee shall permit the Board of Health or its agents or other Town authorities acting in an official capacity to inspect his place of business and his work at any reasonable time.

CHAPTER 215-6

Keeping of Domestic Animals

- SECTION 1.** No person shall keep within the limits of the Town of Hull, in any building or on any premises of which he may be the owner, lessee, tenant or occupant, any cows, cattle, horses, ponies, goats, sheep, swine, poultry, birds, reptiles, rabbits or pigeons, without first obtaining a permit from the Board of Health or its Agent or designee (Animal Inspector). The permit fee shall be twenty-five dollars (\$25).
- SECTION 2.** Such application shall be accompanied by a plan showing the property used, the location of the shelter, stable and/or appurtenances thereto, a floor plan of the shelter or stable, the location of any watercourses, drains and adjacent dwellings. Information relative to provision for adequate water supply, drainage, the sanitary storage and disposal of manure and other refuse matter must accompany the application.
- SECTION 3.** The owners or persons in control of any building or premises in which goats, live fowl, cattle horses, ponies, cows, sheep, swine, rabbits, pigeons or other animals (excluding dogs and cats kept as pets) are kept, shall keep the buildings and premises clean and free from decaying food, filth, dirt, manure and stagnant water. The buildings and pens shall be whitewashed or disinfected and put in condition as may be ordered by the Board of Health or its Agent or designee (Animal Inspector) with regular spraying and baiting to prevent insects and rodents from becoming a nuisance and health hazard.
- SECTION 4.** The owner or other person or persons having control of an existing building or shelter hereafter erected or converted into a barn for the stabling of horses or other domestic animals shall keep the barns, stables, yards, etc., clean and shall provide a pit constructed of cement or other suitable material for the reception of manure and other refuse material. Wherever a public sewer is accessible, the Board of Health may, if they deem it advisable, order the connection of such building with such public sewer. Said barn shall be no less than fifty feet (50') from the dwelling, no less than twenty feet (20') from the public way. The maximum number of live fowl kept in a henhouse shall be no more than one (1) mature fowl per three square feet. Said shelter shall be no less than fifty feet (50') from any dwelling, no less than twenty feet (20') from any public way, and no less than twenty feet (20') from the property line.
- SECTION 5.** The maximum number of live fowl kept in a henhouse shall be no more than one (1) mature fowl per three square feet. Said shelter shall be no less than fifty feet (50') from any dwelling, no less than twenty feet (20') from any public way, and no less than twenty feet (20') from the property line.

- SECTION 6.** Any cows, cattle, horses, ponies, goats, sheep, swine, poultry, birds, pigeons, rabbits or reptiles, kept within the limits of the Town of Hull, must be kept within the confines of a fence, pen, corral or other type of enclosure approved by the Board of Health or its Agent or designee (Animal Inspector). Any such enclosure must be a minimum of twenty feet (20') from a public way, fifty feet (50') from a well, stream or other waste supply, fifty feet (50') from a dwelling or commercial building, and twenty feet (20') from a property line.
- SECTION 7.** All animals for which a permit has been issued must be sheltered in a building approved by the Board of Health or its Agent or designee (Animal Inspector).
- SECTION 8.** Live fowl shall be confined at all times and shall not be permitted to run at large. No rooster shall be kept in a residential area.
- SECTION 9.** The keeping of any animal (excluding dogs and cats), the nature of which is considered which is dangerous, is prohibited without a special permit from the Board of Health.
- SECTION 10.** The Board of Health, or its Agent or designee may interview abutters for their approval or objections before acting on all applications.
- SECTION 11.** The Board of Health, or its Agent or designee (Animal Inspector) shall inspect all premises for which said permits have been issued.
- SECTION 12.** The penalty for non-compliance with any of the above rules and regulations shall be a fine of not more than twenty dollars (\$20.00) for every day in which the violation continues to exist.
- SECTION 13.** Any person aggrieved by a decision of the Board may seek relief there from in a court of competent jurisdiction, as provided by the General Laws of the Commonwealth of Massachusetts.

The foregoing Rules and Regulations for the Keeping of Domestic Animals in the Town of Hull were approved by the unanimous vote of the Board of Health of the Town of Hull on November 30, 1978, to be effective January 1, 1979.

CHAPTER 215-7 CAT REGULATIONS

- SECTION 1.** The Board of Health of the Town of Hull, acting under the authority of the 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, hereby adopts the following regulations governing the keeping of cats and kittens.
- SECTION 2.** No person, firm or corporation shall keep within the Town, in any building or on any premises on which he may be owner, lessee,

tenant or occupant, or house any more than six (6) cats/kittens for a period of time not to exceed six (6) weeks except when such person, firm or corporation shall be licensed by the Town as a retail business establishment dealing in the keeping/sale of cats/kittens.

SECTION 3. Whoever violates any provisions of the foregoing regulation, or order made thereunder, shall be punished by a fine of twenty dollars (\$20.00) for each day such violation continues.

This regulation was adopted by a unanimous vote of the Board of Health at a regular meeting held March 10, 1980, to be effective upon publication.

CHAPTER 215-8 PERCOLATION TESTS

- SECTION 1.** Unless otherwise authorized by the Board of Health or its Agent, percolation tests shall be performed between March 15 and June 1 and between September 15 and November 30 of each calendar year.
- SECTION 2.** The percolation test must be performed by a registered professional engineer or registered sanitarian and witnessed by the local health agent.
- SECTION 3.** The fee for a percolation test shall be thirty dollars (\$30.00). (Fees are subject to change.)

CHAPTER 215-9 PUBLIC AND SEMI-PUBLIC SWIMMING POOLS

- SECTION 1.** A permanent line of a contrasting color shall be placed on the bottom and the vertical sides of a pool to indicate the beginning of a depth greater than five feet (5').
- SECTION 2.** Bacterial Quality: The swimming pool water must be tested for the presence of coliform bacteria at least twice every month the pool is in operation. Tests are the responsibility of the owner/operator and are to be performed by a certified testing laboratory. Test results must be sent to the Board of Health no later than the first day of each successive month.
- SECTION 3.** A polyethylene line with floats shall be installed across the width of the pool at the location where the slope of the

bottom increases to separate the diving area from the swimming area.

SECTION 4. All ladders and stairways shall be outlined below and above the water line by contrasting colored lines so as to be easily distinguishable.

SECTION 5. Chemical Standards: Tests to determine PH and chlorine residual shall be made twice daily during use by the pool operator for each day the pool is in operation. Results of these tests shall be duly available for the Board of Health at the time of inspection.

SECTION 6. ****NEW **** Effective December 19, 2008 in accordance with the New Federal Pool Requirements (The Virginia Graeme Baker Pool & Spa Safety Act) all public, semi-public and special purpose swimming pool drain/grate covers must conform to the American National Standard ASME A112.19.8-2007 Suction Fittings for Use in Swimming Pools, wading pools, spas, and hot tubs.

For more information see MDPH-Community Sanitation Program website at www.mass.gov/dph/dcs.

CHAPTER 215-10

ATTIRE AND CONDUCT FOR FOOD SERVICE HANDLERS AND EMPLOYEES OF ESTABLISHMENTS WHERE FOOD AND DRINK ARE SOLD AND SERVED.

Proper attire shall be worn by food service handlers and employees of all establishments where food and drink are sold and served to sufficiently cover genitalia and mammary glands.

Nor shall there be any physical contact between the aforementioned food service handlers, employees and persons under contract by the establishment and the patrons while on said premises.

No entertainment shall be conducted on any furniture used in the establishment for the purposes of serving food and drink.

CHAPTER 215-11

HEARINGS

- SECTION 1. Procedure For Requesting And Holding a Hearing:** Unless otherwise specified in these regulations, the person or persons to whom any order has been served pursuant to any regulations of this code may request a hearing before the Board of Health by filing with the Board of Health within seven (7) days after the day the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than thirty (30) days after the day on which the order was served. The Board of Health, upon application of the petitioner, may postpone the date of the hearing for a reasonable time beyond such thirty (30) day period if in the judgment of the Board of Health the petitioner has submitted a good and sufficient reason for such postponement.
- SECTION 2. Hearing of Petitioner:** At the hearing the petitioner shall be given an opportunity to be heard and to show why the order should be modified or withdrawn.
- SECTION 3. Procedure By The Board After Hearing:** After the hearing the Board of Health shall sustain, modify or withdraw the order and shall inform the petitioner in writing of its decision. If the Board of Health sustains or modifies the order, it shall be carried out within the time period allotted in the original order.
- SECTION 4. Public Record:** Every notice, order or other record prepared by the Board of Health in connection with the hearing shall be entered as a matter of public record in the office of the clerk of the city or town, or in the office of the Board of Health.
- SECTION 5. Hearing Petition Not Submitted, Or Sustaining Of Order:** If a written petition for a hearing is not filed with the Board of Health within seven (7) days after the day an order has been served or if after a hearing the order has been sustained in any part, each day's failure to comply with the order as issued or modified shall constitute an additional offense.

CHAPTER 215-12

APPEALS

Any person aggrieved by the final decision of the Board of Health with respect to the denial of plan approval, the denial or revocation or failure to renew a license, or with respect to any order issued under the provisions of this code may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

CHAPTER 215-13

VARIANCES

The Board of Health may vary the application of any provision of this article with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, provided, that the decision of the Board of Health shall not conflict with the spirit of these minimum standards. Any variance granted by the Board of Health shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the clerk of the city or town, or in the office of the Board of Health.

The request for all variances shall be submitted by the property owner in writing to the Board of Health. A hearing shall then be scheduled within a reasonable time and in accordance with any applicable laws and regulations. All variances will have an expiration date after which re-application may be made. Variances will only be valid while the property remains in the owner's name in which the variance request was originally made.

VARIANCE, GRANT OF SPECIAL PERMISSION EXPIRATION, MODIFICATION, SUSPENSION OF

Any variance or other modification authorized to be made by this article may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses in its grant. A variance or 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, in conformity with the requirements for an order of Chapter X of these regulations.

CHAPTER 215-14

PENALTIES AND INVALIDATION PENALTIES — STATE SANITARY CODE

- SECTION 1.** **Interference After Search Warrant Presented:** Any owner, occupant, or other person who refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure, operation or premises where inspection authorized by this code is sought after a search warrant has been obtained and presented in accordance with Regulation 3.3 of the State Sanitary Code, shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).
- SECTION 2.** **Failure to Comply With An Order:** Any person who shall fail to comply with any order issued pursuant to the provisions of this code, shall upon conviction, be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). Each day's failure to comply with an order shall constitute a separate violation.
- SECTION 3.** **Penalties Not Otherwise Provided:** Any person who shall violate any provision of this code for which penalty is not otherwise provided in any of the General Laws or in any other provision of this code shall upon conviction be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

PENALTIES — BOARD OF HEALTH REGULATIONS

Whoever violates any provisions of these rules and regulations shall be fined not more than twenty dollars (\$20.00) by the court having jurisdiction, unless otherwise provided by law.

CHAPTER 215-15

PLACARDING

- SECTION 1.** **Interference With Placards Prohibited:** No person shall interfere with or obstruct any agent of the Board of Health in the posting of any placard in accordance with the requirements of these regulations, in or on any place or premises, nor shall any person conceal, mutilate, or remove any such placard, except by the direction of the Board of Health or its agent.

- SECTION 2.** In the event of any such placard being concealed, mutilated or torn down it shall be the duty of the occupant, owner or person in charge of the premises whereon such placard was posted to immediately notify the Board of Health of such fact.
- SECTION 3.** Anyone who violates these provisions is subject to the same fines and other penalties which are provided for in other parts of these regulations.
- SECTION 4.** When action is taken to close an establishment and have said operation cease, the Board of Health or its agent shall be required to conspicuously post a placard at each entrance of the establishment stating the existence of such order and the authority for such order. This order is not to be concealed, mutilated or altered by any person or removed without permission of the Board of Health or its agent.

CHAPTER 215-16

CLOSURE OF FOOD SERVICE ESTABLISHMENT AND RETAIL FOOD ESTABLISHMENT

- SECTION 1.** Whereby the Health Agent for the Board of Health has emergency powers to close such establishment as noted above when it is felt to be in the public interest, there must be notification to the Board Members within forty-eight (48) hours with reason for said action.
- SECTION 2.** When an establishment has been closed in this manner, said establishment is not to re-open without permission of the Board of Health which will in most cases be granted if cited violations have been corrected and if there exists a valid permit(s) to operate or application has been made for same.
- SECTION 3.** Establishments which violate such closure orders will be subject to future suspension of applicable operating permit(s) and such publicity as is deemed necessary.

PLAN REVIEW

- SECTION 1.** It is the responsibility of the food service establishment operator, prior to construction or major renovation, to supply the Board of Health with a sketch, drawn to scale, of

his/her food service establishment, showing the floor layout, equipment, plumbing, ventilation, refuse storage facilities, sewage disposal facilities, and other pertinent information. Submission and review of said plans does not relieve the operator of a food service establishment from meeting all requirements of these regulations or of the State Sanitary Code.

SECTION 2. The Board of Health will complete the review of the submitted plans within thirty (30)days from the day of submission. The fee for each review of plans is twenty-five dollars (\$25.00). (All fees are subject to change).

CHAPTER 215-17

Smoke-Free Workplace Policy Hull, MA

The Town of Hull is dedicated to providing a healthy and productive work environment for all employees. The United States Surgeon General, in his 1986 report, *The Health Effects of Involuntary Smoking*, concluded that:

- ◆ **Secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers.**

- **The separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to tobacco smoke.**

The Town of Hull has, therefore, developed a smoke-free policy to protect all employees and to ensure a safe working environment for everyone. The policy is as follows:

Smoking is prohibited inside all town buildings, in offices, hallways, restrooms, lunchrooms, elevators, meeting rooms and all common areas and in all town-owned vehicles, effective January 1, 1995. Smoking will be allowed in the following outside areas:

| | |
|---|--|
| Council on Aging | Back entrance |
| Department of Public Works | Back garage door entrance |
| Fire Department | "A" Street entrance |
| Library | Behind building (Highland St.) by bike rack |
| Light Plant | Garage door entrance (off Edgewater Rd.) |
| Police Department | Back driveway |
| Town Hall | Side entrances |
| Water Pollution Control Facility | Side door facing wetlands |

Copies of this policy shall be posted conspicuously. "No Smoking" signs shall be posted at all building entrances. The success of this policy will depend upon the thoughtfulness, consideration and cooperation of smokers and nonsmokers. All employees share in the responsibility for adhering to and enforcing the policy. Any problems should be brought to the attention of the appropriate supervisor, who is responsible to ensure compliance.

**REGULATIONS PERTAINING TO SMOKING IN RESTAURANTS
SECTION I: STATEMENT OF PURPOSE**

Whereas conclusive evidence exists that tobacco smoke causes cancer (U.S. Surgeon General, 1986), respiratory and cardiac diseases, negative birth outcomes, irritations to 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 (ETS), which includes both exhaled smoke and the side stream smoke from burning cigarettes, causes the death, by lung cancer alone, of 3000 Americans each year (U.S. EPA, 1993); 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 Town of Hull recognizes the right of those who wish to breathe smoke free air and recognizes that the need to breathe smoke free air shall have priority over the desire to smoke and establishes this regulation to protect and improve the public health and welfare by prohibiting smoking in certain public areas.

SECTION II: AUTHORITY

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

SECTION III: DEFINITIONS

For the purpose of this regulation, the following definitions shall apply.

BAR: An 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.

PATIO AREA: The outdoor, or sidewalk seating portion of a restaurant, provided that such outdoor section is not enclosed, except for one side which adjoins the restaurant.

BAR AREA OF A RESTAURANT: An area of a restaurant that is devoted to the serving of alcoholic beverages for consumption by guests or restaurant patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages.

BOARD: The Board of Health of the Town of Hull.

HEALTH CARE FACILITY: Any office or institution providing care or treatment of disease, whether physical, mental, emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

INDOOR SPORTS ARENA: Any sports pavilion, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

POURING LICENSE: A Section 12 License, as defined by the Massachusetts Alcoholic Beverages Control Commission, that permits the sale of alcoholic beverages to be drunk on the premises.

PRIVATE CLUB: A not-for-profit establishment with a defined membership.

PUBLIC PLACE: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds, any area open to the general public including, but not limited to libraries, museums, theaters, banks, laundromats, indoor sports arenas, auditoriums, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrance ways, elevators accessible to the public and licensed child care centers.

PUBLIC TRANSPORTATION: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the city including indoor platforms by which such means of transportation may be accessed.

RESTAURANT: Any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

RETAIL FOOD STORE: Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

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

SEATING CAPACITY: the capacity designated on the occupancy permit of a food service establishment.

SMOKING: Inhaling, exhaling, burning or carrying any lighted tobacco product.

VENTILATION SYSTEM: A mechanical system to remove tobacco smoke and exchange inside air by bringing in fresh air. Particulate air cleaners or filtration systems are not considered a ventilation system.

SECTION IV: SMOKING PROHIBITED

No person shall smoke nor shall any person, employee, or other person having control of the premises upon which smoking is prohibited by this regulation, or the agent or designee of such person, permit a person to smoke in any of the following places as defined herein: restaurants, retail stores, supermarkets, grocery stores, health care facilities, polling places, public places, sports arenas or public transportation, except as otherwise provided in Section VIII of this regulation.

SECTION V: ELECTION FOR COVERAGE BY PRIVATE FACILITIES

The owner, manager, or other person in charge of a building or facility not covered by Section IV of this regulation may elect to have Section IV apply by so notifying the Board in writing and by posting signs prohibiting smoking as provided in Section VI of this regulation.

SECTION VI: SIGNAGE

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 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 Board of Health

SECTION VII: SMOKING WHERE NOTICE OF PROHIBITION POSTED.

No person shall smoke in any place in which a sign conforming to the requirements of Section VI of this regulation is posted. No person shall remove a sign posted under the authority of Section VI of this regulation.

SECTION VIII: EXCEPTIONS

Notwithstanding the provisions of Section IV and V of this regulation, smoking may be permitted in the following places and/or circumstances:

- (a) Private residences, except those portions used as childcare or health care office when operating as such.**
- (b) Hotel and motel rooms rented to guests that are designated as smoking rooms. Hotel and motel meeting rooms and private and public assembly rooms while these places are being used for private functions.**
- (c) Private or semiprivate rooms of nursing homes and long term care facilities, occupied by one (1) or more patients, which are separately ventilated, all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.**
- (d) The bar area of a new restaurant that holds a pouring license, provided that as of July 15, 2000, it is (1) separated from the non-smoking area of the restaurant by location in a separate room or by means of physical barriers that completely enclose the bar area of the restaurant, and is (2) served by a ventilation system that is separate from the ventilation system that serves the non-smoking portion of the restaurant; or, it is separated from the non-smoking dining area of the restaurant and ensures that the air from the bar area does no interfere with the smoke free air in the dining area.**

The proprietor or person in charge of each existing restaurant shall arrange seating so that the existing physical barriers, ventilation systems and available space are utilized to minimize the effects of smoke on persons in the non-smoking area.

- (e) Bars that permit smoking must prohibit the entry of persons under eighteen (18) years of age and conspicuously post signs approved by the Hull Board of Health at the entrance prohibiting persons under eighteen (18) years of age advising patrons of the health hazards of environmental tobacco smoke; and,**

- (f) Retail tobacco stores that are primarily for the sale of tobacco products and paraphernalia, in which the sale of other products is merely incidental, prohibit minors from entering the establishment**

- (g) Private clubs, except when the private club is open to the public.**

SECTION IX: PENALTIES

Any person who violates this regulation shall be subject to a fine in an amount of one hundred dollars (\$100.00) for a first offense and two hundred dollars (\$200.00) for a second of subsequent offense.

SECTION X: ENFORCEMENT

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 enforcement.

SECTION XI: NON-CRIMINAL DISPOSITION

Whoever violates any provision of this regulation 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.

**Each day on which any violation exists shall be deemed to be a separate offense.
Penalty: \$100.00 for first offense.
\$200.00 for second or subsequent offense**

Enforcing Persons: Hull Board of Health and its designees Hull Police Department.

SECTION XII: CONFLICT WITH OTHER LAWS AND REGULATIONS

Notwithstanding the provisions of the foregoing, nothing in this regulation shall be deemed to either 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.

SECTION XIII

SEVERABILITY

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

SECTION XIV: EFFECTIVE DATE

These regulations shall be effective as of July 15, 2000.

UNDER THE AUTHORITY GRANTED TO THE HULL BOARD OF HEALTH UNDER THE MASSACHUSETTS GENERAL LAWS CHAPTER 111, SECTION 31 THAT "BOARDS OF HEALTH MAY MAKE REASONABLE HEALTH REGULATIONS -ALL REGULATIONS AFFECTING THE SALE, VENDING AND DISTRIBUTION OF TOBACCO IN HULL, TOBACCO SALES TO MINORS PROHIBITED, PERMIT FOR LOCATION AND SALES OF TOBACCO, PENALTIES, FINES AND SUSPENSION OR REVOCATION OF PERMITS ARE GOVERNED BY MGL, CHAPTER 111, SECTION 31.

CHAPTER 215-18

MODEL REGULATIONS FOR BODY ART AND TATTOO ESTABLISHMENTS

The Board of Health acting under the authority of the Mass. General Laws, Chapter 111, Section 31 voted unanimously at a meeting held on February 1, 2001 to adopt the Massachusetts Dept. of Public Health's Model Regulations for Body Art Establishments of which is attached to this section.

No person shall practice body art or the giving of tattoos or conduct an establishment for the giving of body art or tattoos, for hire or reward, or advertise or hold himself out as being engaged in the business of body art or the giving of tattoos in the Town of Hull without first obtaining a permit from the Board of Health.

BUSINESS ESTABLISHMENT: FEE= Five Hundred Dollars \$500.00. All permits issued will expire one (1) year from date of issuance.

INDIVIDUAL PRACTICIONER FEE: \$400.00. All permits issued will expire on two (2) years from the date of issuance.

APPRENTICESHIP/INTERNSHIP FEE: \$200.00. All permits issued will expire eighteen (18) months from the date of issuance.

HOURS OF OPERATION: 9:00am to 10:00pm.

DISPLAY OF PERMIT: Every licensed establishment must display in a conspicuous location the licenses of all the licensees operating in the establishment.

DESIGNATION OF NAME: No licensed person shall operate under any name or conduct his or her business under any designation not specified on his or her license

INSPECTIONS: Every licensee shall permit the Board of Health or its agents or other Town authorities acting in an official capacity to inspect his place of business and his work at any reasonable time.

Model Regulations for Body Art Establishments

Section:

1. Purpose and Scope
2. Definitions
3. Exemptions
4. Restrictions
5. Operation of Body Art Establishments
6. Standards of Practice
7. Injury Reports
8. Complaints
9. Application for Body Art Establishment Permit
10. Application for Body Art Practitioner Permit
11. Grounds for Denial of Permit, Revocation of Permit or Refusal to Renew Permit
12. Grounds for Suspension of Permit
13. Procedure for Hearings
14. Unauthorized Practice of Body Art
15. Severability

1. Purpose and Scope

The purpose of the Model Regulations for Body Art Establishments is to set forth a model regulatory scheme for use by communities where Boards of Health seek to enact regulations governing the practice of body art.

2. Definitions

Aftercare means written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary. Applicant means any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

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

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

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

Board of Health or Board means the Board of Health that has jurisdiction in the community in which a body art establishment is located including the Board or officer having like powers and duties in towns where there is

no Board of Health.

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

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

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

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

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.

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

Contaminated Waste means waste as defined in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

Department means the Department of Public Health or its authorized representatives.

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

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

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

Equipment means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks,

and all other apparatus and appurtenances used in connection with the operation of a body art establishment.

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

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

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

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

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

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

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

Permit means Board approval in writing to either (1) operate a body art establishment or (2) operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these model regulations. Said permit is exclusive of the establishment's compliance with other licensing or permitting requirements that may exist within community or political subdivision comprising the Board's jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

Universal Precautions means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vo1.38 No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vo1.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body

fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood and body fluid-contaminated products.

3. Exemptions

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

4. Restrictions

- (A) No tattooing, piercing of genitalia, branding or scarification shall be performed on a person under the age of 18.
- (B) Body piercing, other than piercing the genitalia, may be performed on a person under the age of 18 provided that the person is accompanied by a properly identified parent, legal custodial parent or legal guardian who has signed a form consenting to such procedure.

5. Operation of Body Art Establishments

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

(A) Physical Plant

- (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
- (2) Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.
- (3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.

- (4) Each body art station shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by a dividers or partition at a minimum.
- (5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles 3 feet off the floor, except that at least 100 foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- (6) A separate, readily accessible hand sink with hot and cold running water under pressure, preferably equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (7) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser.
- (8) At least one covered, foot operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leakproof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (9) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of non-contaminated liquid wastes in accordance with all applicable Federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- (10) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- (11) The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
- (12) The establishment shall have a customer waiting area, exclusive and separate from any workstation,

instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.

- (13) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- (14) Smoking, eating, or drinking is prohibited in the area where body art is performed, with the exception of fluids being offered to a client during or after a body art procedure.

(B) Requirements for Single Use Items Including Inks, Dyes and Pigments

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

(C) Sanitation and Sterilization Measures and Procedures

- (1) All non-disposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, (to remove blood and tissue residue), and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- (2) After being cleaned, all non-disposable instruments used for body art shall be packed individually in

sterilizer packs and subsequently sterilized in a steam autoclave. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six (6) months.

- (3) The autoclave shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
- (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be retained by the operator for a period of three (3) years and made available to the Board upon request.
- (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- (7) If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- (8) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.
- (9) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

(D) Posting Requirements

The following shall be prominently displayed:

- (1) A Disclosure Statement, a model of which shall be

- available from the Department. A Disclosure Statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- (2) The name, address and phone number of the local Board of Health that has jurisdiction and the procedure for filing a complaint.
 - (3) An Emergency Plan, including:
 - (a) a plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - (b) a telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - (c) a sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
 - (4) An occupancy and use permit as issued by the local building official.
 - (5) A current establishment permit.
 - (6) Each practitioner's permit.

(E) Establishment Recordkeeping

The establishment shall maintain the following records in a secure place for a minimum of three (3) years, and such records shall be made available to the Board upon request:

- (1) Establishment information, which shall include:
 - (a) establishment name;
 - (b) hours of operation;
 - (c) owner's name and address;
 - (d) a complete description of all body art procedures performed;
 - (e) an inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;
 - (f) A Material Safety Data Sheet, when available, for each ink and dye used by the establishment; and
 - (g) a copy of these regulations.
- (2) Employee information, which shall include:
 - (a) full names and exact duties;
 - (b) date of birth;
 - (c) home address;
 - (d) home /work phone numbers; and
- (3) Client Information, which shall include:
 - (a) name;

- (b) date of birth;
 - (c) address of the client;
 - (d) date of the procedure;
 - (e) name of the practitioner who performed the procedure(s);
 - (f) description of procedure(s) performed and the location on the body;
 - (g) a signed consent form as specified by 6(D)(2); and,
 - (h) if the client is a person under the age of 18, proof of parental or guardian identification, presence and consent including a copy of the photographic identification of the parent or guardian.
- (4) Client information shall be kept confidential at all times.
- (F) The establishment shall require that all body art practitioners have either completed, or were offered and declined, in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided to the Board upon request.

6. Standards of Practice

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

- (A) A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the U.S Centers for Disease Control and Prevention.
- (B) A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- (C) Practitioners who use ear-piercing systems must conform to the manufacturers directions for use, and to applicable U.S. Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- (D) Health History and Client Informed Consent. Prior to performing a body art procedure on a client, the practitioner shall:
 - (1) Inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:
 - (a) history of diabetes;
 - (b) history of hemophilia (bleeding);
 - (c) history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants etc.;
 - (d) history of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - (e) history of epilepsy, seizures, fainting, or narcolepsy;

- (f) use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
 - (g) any other conditions such as hepatitis or HIV.
- (2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by section 6(K).
- (E) A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash their hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- (F) In performing body art procedures, a practitioner shall wear disposable single- use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with section (E) before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.
- (G) The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- (H) Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- (I) Preparation and care of a client's skin area must comply with the following:
 - (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - (2) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be

placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

- (3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- (J) Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.
- (K) The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:
 - (1) on the proper cleansing of the area which received the body art;
 - (2) to consult a health care provider for:
 - (a) unexpected redness, tenderness or swelling at the site of the body art procedure;
 - (b) any rash;
 - (c) unexpected drainage at or from the site of the body art procedure; or
 - (d) a fever within 24 hours of the body art procedure; and
 - (3) of the address, and phone number of the establishment. A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.
- (L) Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waster, State Sanitary Code, Chapter VIII.

7. Injury Reports

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

- (A) the name of the affected client;

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

8. Complaints

- (A) The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Board's regulations.
- (B) If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.
- (C) If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

9. Application for Body Art Establishment Permit

- (A) No person may operate a body art establishment except with a valid permit from the Board.
- (B) Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- (C) An establishment permit shall be valid from the date of issuance and shall automatically expire in one (1) year from the date of issuance unless revoked sooner by the Board.
- (D) The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
 - (1) Name, address, and telephone number of:
 - (a) the body art establishment;
 - (b) the operator of the establishment; and
 - (c) the body art practitioner(s) working at the establishment;
 - (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - (3) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
 - (4) A drawing of the floor plan of the proposed

establishment to scale for a plan review by the Board, as part of the permit application process; and,

- (5) Such additional information as the Board may reasonably require.
- (E) The Board shall set a reasonable fee for such permit.
- (F) A permit for a body art establishment shall not be transferable from one place or person to another.

10. Application for Body Art Practitioner Permit

- (A) No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board. The Board shall set a reasonable fee for such permits.
- (B) A practitioner shall be a minimum of 18 years of age.
- (C) A practitioner permit shall be valid from the date of issuance and shall automatically expire in two (2) years from the date of issuance unless revoked sooner by the Board.
- (D) Application for a practitioner permit shall include:
 - (1) name;
 - (2) date of birth;
 - (3) residence address;
 - (4) mailing address;
 - (5) phone number;
 - (6) place(s) of employment as a practitioner; and
 - (7) training and/or experience as set out in (E) below.
- (E) Practitioner Training and Experience
 - (1) In reviewing and application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
 - (2) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - (a) bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - (b) First Aid and cardiopulmonary resuscitation (CPR). Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" (U.S. OSHA). Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for

approval.

- (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that s/he completed a course on anatomy, completed an examination on anatomy, or possesses an equivalent combination of training and experience deemed acceptable to the Board.
 - (4) 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.
- (F) A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these model regulations.

11. Grounds for Denial of Permit, Revocation of Permit, or Refusal to Renew Permit

- (A) The Board may deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for revocation or refusal to renew:
- (1) any actions which would indicate that the health or safety of the public would be at risk;
 - (2) fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
 - (3) criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (4) any present or past violation of the Board's regulations governing the practice of body art;
 - (5) practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (6) being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 - (7) knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
 - (8) continuing to practice while his/her permit is lapsed, suspended, or revoked; and
 - (9) having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in

the Board's regulations.

- (10) other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art;
- (B) The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven (7) days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit, if the applicant, establishment or practitioner fails to comply after said seven (7) days.
- (C) Applicants denied a permit may reapply at any time after denial.

12. Grounds for Suspension of Permit

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

13. Procedure for Hearings

(A) Suspension of a Permit

- (1) After a Board suspension of a permit, a hearing shall be initiated pursuant to 801 CMR 1.00 et seq. (Standard Adjudicatory Rules of Practice and Procedure), no later than twenty-one (21) calendar days after the effective date of the suspension.
- (2) Upon written request to the Board of Health, the establishment or practitioner shall be afforded an opportunity to be heard concerning the suspension of the permit by the Board.
- (3) In cases of suspension of a permit, the hearing officer shall determine whether the Board has proved by a preponderance of the evidence that there existed immediately prior to or at the time of the suspension an immediate and serious threat to the public health, safety or welfare. The hearing officer shall issue a written decision, which contains a summary of the testimony and evidence considered and the reasons for the decision.

(B) Denial, Revocation, or Refusal to Renew a Permit

- (1) If the Board determines that a permit shall be denied, revoked, or not renewed pursuant to the Board's regulations, the Board shall initiate a hearing in accordance with 801 CMR 1.00 et seq.
- (2) Following the hearing, the hearing officer shall

- issue a written
- (3) decision that contains a summary of the testimony and evidence considered and the reasons for the decision.

14. Unauthorized Practice of Body Art

The Board shall refer to the appropriate District Attorney, Attorney General, or other law enforcement official any incidents of unauthorized practice of body art.

15. Severability

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

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SEVERABILITY

If any section, paragraph, sentence or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decision will 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.