

**TOWN OF WELLFLEET
BOARD OF HEALTH REGULATIONS
2007**

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**TOWN OF WELLFLEET
BOARD OF HEALTH REGULATIONS**

100 INTRODUCTION

101 The following regulations are promulgated under the authority of the General Laws of the Commonwealth. They supplement those provided by the State Building and Sanitary Codes, and those issued under the Wetlands Protection Act, the Water Pollution Control Act, the Wellfleet Floodplain Bylaw, and the Wellfleet Environmental Protection Bylaw. The Wellfleet Board of Health Regulations will prevail when they are more restrictive.

102 The following regulations are designed to protect the public health and safety of the residents and visitors, and are based on the particular physical, environmental, hydrogeological, and demographic conditions, and land use information and projections available to the Board as they relate to the Town of Wellfleet. Of specific concern is the need to protect the groundwater, which is the sole source of our drinking water.

103 These regulations become effective January 1, 1988 and supercede all previously issued Board of Health regulations, except as noted hereinafter.

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

200 ADMINISTRATION

201 The Board of Health will make determinations in accordance with these and other regulations, but reserves the right in special circumstances, as determined in its judgment, to be more restrictive, to issue variances, or to grant exemptions. The rationale for such departures shall be documented in written minutes of the Board of Health meeting in question.

202 The Health Agent is authorized to act for the Board of Health (1) when an applicant has clearly met all State and Wellfleet requirements, and (2) in emergency situations. At its next posted meeting, the Board of Health is required to ratify or modify as necessary, in its judgment, the actions taken and/or decisions made by the Health Agent in such emergency situations.

300 DEFINITIONS

301 With the exceptions listed in 302, the definitions provided in the State Building and Sanitary Codes and the Wetlands Protection Regulations will apply. "Board" shall mean the Wellfleet Board of Health.

302 The following definitions are adopted by the Board for use in administering these regulations and interpreting State laws, regulations and codes.

ABUTTERS Owners of all adjacent properties and properties directly across any public or private highway, road, street or way.

ALTERATION To make different by changing, adding and/or subtracting components, piping, and/or location.

BEDROOM A room providing privacy, intended primarily for sleeping, and consisting of all of the following:

- (a) floor space of no less than 70 square feet
- (b) for new construction or existing houses and mobile homes a ceiling height of no less than 7'0"
- (c) an electrical service and ventilation, and with regard to new construction at least one building code conforming egress window.

The following are not considered bedrooms:

Any "pass through" room that does not afford privacy, a living room or "great" room, a dining room, kitchens, halls, bathrooms, unfinished cellars, unheated storage areas over garages, and loft spaces less than 70 square feet. Any extra rooms (such as a finished basement or playroom with building conforming egress) may be considered a bedroom if it meets the definition. For new construction, proposed renovation, alteration or replacement of structure, conformity to definition criteria is expected; for existing developments, criteria will be applied in context of the vintage of construction. Deed restrictions will be required if maximum bedroom allotment is met and homeowner wishes to finish rooms that may appear to meet the definition above.

FAILED SYSTEM A leach pit or cesspool which overflows due to inadequate design or capacity for the existing use, or which requires pumping more than four (4) times in a twelve-month period to prevent such overflows, or a leaching facility that is found to be in the groundwater.

FILLED LAND Land whose elevation is being, or has been, raised within the past fifty years by the addition of fill or spoil on the preexisting natural grade.

GRANDFATHERED NON-CONFORMING DWELLING An existing habitable dwelling with a design flow rate that exceeds the nitrogen loading limitations.

MOUNDING Raising the natural elevation or grade of the ground to cover the components of a sewage disposal system, and/or to meet the vertical distance requirements above groundwater.

NITROGEN LOADING LIMITATIONS The 440 gallons per day per acre nitrogen loading limitations for design of septic systems in Nitrogen Sensitive Areas as designated in Title 5.

REPAIR To restore to the original condition in the original location by replacing and/or putting together what is damaged or broken.

UPGRADE To alter in such a fashion as to improve performance over that of the system as originally installed.

400 REGULATORY PROCESS AND GENERAL PROVISIONS

401 Any project which creates additional bedrooms or commercial space through new construction or by alteration of an existing structure and changes of use of an existing property, must meet both the State Sanitary Code and Wellfleet Board of Health Regulations.

402 Plans prepared by a Registered Engineer or by a Registered Sanitarian are required by the Board for consideration of any project or change requiring Board approval.

403 Board of Health Well and Disposal Works (Septic System) Construction Permits shall expire three (3) years from date of final approval.

404 The following regulation shall apply to all proposed projects comprising six or more dwelling units (existing and/or new) such as hotels, motels, cluster developments, planned developments, subdivisions, nursing homes, and hospitals. Any developer who seeks to discharge septic system effluent to the groundwater from any of the above types of development shall be required to obtain Board approval to do so. A preliminary discussion with the Board of Health is recommended to define the specific information needed by the Board in each situation. In the application for Board approval, the information listed below will generally be required:

- A. A water table contour map and geological description of the area in the vicinity of the proposed project, depicting groundwater flow direction.
- B. Projections of nitrogen levels in down-gradient groundwater and delineation of effluent plumes.
- C. Projection of the impact on down-gradient water supplies (both present and potential), lakes, ponds, marshlands, estuaries and coastal waters.
- D. Appropriate water quality information.

The information provided to the Board must demonstrate that no significant impact to down-gradient water resources will occur as a result of the project.

500 WATER WELLS

501 A water supply considered acceptable in quality and quantity by the Board of Health is a prerequisite for any project or change requiring Board of Health permission. A water supply shall be deemed acceptable in quality if sodium is not greater than 2000mg/l, nitrate/nitrogen is not greater than 10 mg/l, coliform does not exceed zero and all EPA standards are met.

502 If a previous water test is on file and has tested above the allowable limits the Board reserves the right to require a retest at its discretion.

503 No well is to be installed without prior issuance of a Board of Health permit. Replacement wells are not excepted. Within seven days after installation, a "Well Construction Record" is to be submitted by the installer to the Board of Health on the form provided.

504 Private water wells are to be located on the property served.

505 Water wells for new construction of private residences are to be located at least 100 feet from any cesspool or septic system leach field, and at least 50 feet from any catch basin serving a paved area. To the extent feasible, replacement wells are to meet the same criteria. In any event, replacement wells are not to be located closer to the nearest cesspool or septic system leach field than the well being replaced.

506 For new construction, water well completion reports must be provided to the Board before a sewage disposal works permit will be issued. Such reports will locate the well installation accurately on the plot plan of the property, and describe the physical characteristics of the well, for example, by providing a well log.

507 Only well-drillers licensed by the Commonwealth of Massachusetts may install wells which are to provide water for drinking purposes, irrigation or monitoring.

508 A water sample shall be obtained from all drinking wells requiring a permit for analysis by the Barnstable County Health Department or by a State-certified laboratory. The testing shall include as a minimum (1) coliform count, (2) pH, (3) conductivity, (4) iron content, (5) nitrate content, and (6) sodium content. A copy of the analysis report shall be furnished to the Board of Health.

509 Whereas there is evidence that the groundwater in the vicinity of the Wellfleet Landfill contains substances which are injurious to human health in the judgment of the Board of Health, and whereas the Board of Health has a responsibility to protect the health of those who obtain their domestic water supplies from such ground waters, and whereas the Cole's Neck public water supply has been installed whose primary purpose is to prevent

any potential health problems arising from the use of such waters, therefore it is prohibited to install and/or use drinking water wells in the Cole's Neck Area to be Served (ATBS) as defined in the Cole's Neck Regulations as adopted November 26, 1990 and amended May 7, 1991 and September 24, 2001.

- 510 a) When a property is sold or transferred, a standard water quality test is required by the seller, and a copy is to be provided to the Health Department.
b) Prior to Board of Health signoff on any Certificate of Occupancy, a standard water quality test taken within one year of the request for Certificate of Occupancy and meeting the Federal Drinking Water Standards is required.
c) Prior to issuance of any Disposal Works Construction Permit, a standard water quality test taken within one year and meeting the Federal Drinking Water Standards is required.

511 It shall be unlawful for a commercial entity to employ the use of non-recycled water-dependent displays of merchandise.

512 Bottled water permits will not be allowed for new food service establishments.

600 SUBSURFACE SEWAGE DISPOSAL SYSTEMS

601 Sewage Disposal Works Construction Permits will be issued when the proposed system fully meets the physical (i.e. hardware and spatial) requirements of the State Sanitary Code (Title 5), and the following specific requirements of the Wellfleet Board of Health:

- A. The leaching field must be at least 100 feet, and the septic tank at least 50 feet, from any water-course.
- B. The septic tank and the leaching facility must be at least 1 foot below the existing natural grade when in the 100 year floodplain.
- C. A minimum 1500 gallon septic tank is required for single family dwelling units.
- D. Inspection and approval by the Board of Health or its Agent at the time of installation is required by the Board.
- E. The applicant must provide evidence that the property to be served by the system has an acceptable water supply before a Sewage Disposal Works Construction Permit will be issued.

602 "As-Built" cards must be filed with the Health Agent prior to final inspection of the system by the contractor. The Board of Health requires certified As-Built plans by the engineer. As-Built cards or plans must accurately depict the installed locations of system components.

603 Unless inspected previously within two years under the terms of this regulation, the sewage disposal system shall be inspected by a licensed inspector approved by the Board of Health whenever a property containing such a system is transferred by sale, exchange, gift, or bequest to a new ownership, or placed into or taken out of a form of trust

ownership. A copy of the report of such inspection is to be furnished to the Health Department by the prospective new owner prior to the closing.

The Health Department shall promptly evaluate all such reports received and determine whether or not it requires, within six (6) months from the date of closing, an upgrade of said disposal system to meet Title 5 and Town regulations to the extent feasible. A system that passes inspection shall be deemed to have met the standards of Title 5 that were in place when the system was permitted.

In making its determination, the Health Department and the Board of Health shall consider the following:

- (1) vertical separation between the bottom of the leaching facility and adjusted observed groundwater meets the minimum of 4 feet for existing 1978 code systems and 5 feet for 1995 code systems,
- (2) setbacks to septic systems and wells in the neighborhood,
- (3) setbacks to wetlands and local requirements for denitrification,
- (4) evidence of overflow, hydraulic loading, breakout, filling, or a deviation from the approved plan,
- (6) pumping records,
- (7) leaching capacity of existing systems relative to potential need.

This regulation shall not be effective at the conveyance or devise of the property to the surviving spouse or, in the case of joint ownership, if the property is conveyed to one of the original owners.

In Wellfleet, a cesspool system serving a property to be transferred shall be defined as “failed” and must be upgraded to meet Title 5 standards within 6 months.

- 604 The addition or application of any chemical or biological agent for the purpose of cleansing or rejuvenating on-site cesspools or septic systems is prohibited except where approved by the DEP.
- 605 Systems judged by the Health Agent to have failed must be upgraded to meet existing State and local requirements. Systems that are a threat to the public health must be repaired immediately.
- 606 Waterless toilets may be permitted by the Board of Health for temporary use under special circumstances. Use of permanent waterless toilets shall be governed by the State Sanitary Code.
- 607 The use of a nitrogen reducing system is required when there is a variance to the required 100 feet separation between a drinking water supply well and a soil absorption system, or when a soil absorption system is located less than 100 feet from a salt marsh or any marine surface water.

Variances to this section may take into account the following mitigating factors:

direction of groundwater flow, topography, soil conditions, well depths, water quantity/availability, water quality of the locus and surrounding lots, and feasible location of structure and septic system.

Any property served by an innovative/alternative system, or recirculating sand filter system approved by the Board of Health shall have notice of the presence of this system recorded on the property deed at Barnstable County Registry of Deeds.

608 In order to specifically apply the nitrogen loading limitations of 310 CMR 15.214(1) to land area available for recharge, the Board of Health shall only consider “upland” in order to calculate nitrogen loading limitations. This regulation shall apply in cases where the property extends into salt marshes, filled wetlands and land subject to tidal action.

609 Tight tanks will not be permitted when it is feasible to site and construct a Title 5 compliant upgrade for a seasonal or year round residential structure. Tight tanks will only be permitted when the Board of Health determines that a sufficiently compliant Title 5 system is not feasible due to excessive variances from state and local regulations

610 As allowed under M.G.L. Ch. 111 sec. 31, the Board of Health of the Town of Wellfleet hereby requires that owners and operators of all innovative/alternative sewage treatment technologies and all systems where the soil absorption system is designed for pressure distribution of effluent must report the results of all operation, maintenance, and monitoring activities to Barnstable County Department of Health and Environment. Such reporting must be performed in the manner specified by Barnstable County Department of Health and Environment and must occur within 30 days after each maintenance or monitoring event. Further, when a system operator performs a system inspection and finds that a sewage treatment technology has malfunctioning components which have compromised the system’s ability to treat sewage as designed, the operator shall report on the system’s status and any planned corrective actions to the Board of Health and Barnstable County Department of Health and Environment within 48 hours of inspection.

700 UNDERGROUND STORAGE TANKS

Underground tanks used for the storage of gasoline, fuel oil, diesel oil, kerosene, antifreeze, chemicals and other toxic liquids represent a major threat of contamination to the groundwater. The owner of a storage tank that leaks or overflows, and the owner of the property on which it is located, are responsible for cost of decontamination and are potentially liable for any damages resulting from such occurrences. These costs can be very substantial. It is the intent of these regulations to minimize the threat of groundwater contamination from underground storage tanks. Any person having first knowledge of significant leaks or spills of the above-mentioned liquids is required to report the matter immediately to the Board of Health. Guidelines, which are part of these regulations, are available from the Board of Health for reference by persons affected by these regulations. These guidelines will be used by the Board in administering these regulations and are based on the Barnstable County Health and Environmental

Department Model Underground Storage Tank Regulations and associated backup material.

- 701 Owners of any such underground storage tank on their property, the primary purpose of which is to serve the needs of a private residence or business, are required to remove said tank(s) by December 31, 1997.
- 702 Installation of underground gasoline, fuel and other chemical storage tanks on residential sites is prohibited.
- 703 Such underground storage tanks, not regulated in 701, are subject to the following regulations:
- A. They must be registered with the Board of Health when installed or replaced.
 - B. They may be installed only if secondary confinement and an approved in-tank or interstitial space monitoring system is provided.
 - C. They must be tested 15 years after installation and annually beginning with the 20th year after installation. Test procedures are to conform to 527 CMR 9.18 (7) and be approved by the State Fire Marshal.
 - D. They may not be installed any closer than 800 feet from a public or community water supply.
- 704 No commercial or residential storage tanks may be removed without first obtaining an Underground Storage Tank Removal Permit from the Fire Department.
- 705 Effective 9/22/06 At time of property transfer all above ground tanks (any tank used to store fuel oil for the purpose of heating) shall be required to be replaced with double walled fuel oil storage tanks or shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within containment in such a way that it satisfies the Board of Health and the Fire Department. The area beneath the exterior tank shall be a 4 inch thick continuous concrete slab. All above ground elements of a fuel storage system shall be maintained free of leaks and visible rust.
- 706 Effective 9/22/06 All new construction where above ground fuel storage tanks are installed (inside & outside) shall be required to provide a double walled fuel oil storage tank or shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within containment in such a way that it satisfies the Board of Health and the Fire Department. The area beneath the exterior tank shall be a 4 inch thick continuous concrete slab. All above ground elements of a fuel storage system shall be maintained free of leaks and visible rust.

800 SWIMMING POOLS

- 801 Installation of an in-ground pool or a pool under permanent cover requires permission of the Board of Health. In general, the Board will require plans to scale showing the exact location of the pool relative to buildings, property lines, and other permanent features. The setbacks and clearances therefor must be adequate in the opinion of the Board, considering the circumstances of each individual situation. New pool installations are to include drywells for use when the pool is drained.
- 802 Access to residential pools shall be controlled through fencing, locking gates, landscaping, etc. in order to prevent access by the general public. Commercial pools are regulated by the State.
- 803 When emptying the pool, water shall be drained into an installed drywell, or disposed of in a manner approved by the Board prior to the pool being filled.
- 804 An annual operating permit from the Board of Health is required for non-residential pools, i.e. those associated with hotels, motels, lodging houses, clubs and other commercial enterprises, whether for profit or not. Depending on the circumstances of the individual case, conditions may be attached to the permit which will impose operating procedures such as cleaning, filter changing, water purification, or testing, and other measures intended to guard public health and safety.

900 FARM ANIMALS

In view of Wellfleet's intent at remaining a rural town (per Article 54, voted at the April 1987 Town Meeting), the keeping of farm animals is allowed when and as permitted by the Board of Health at sites which meet zoning requirements. Conditions may be attached by the Board to any permit issued, which will take into consideration and/or regulate the following:

- A. The kind and number of animals to be kept.
- B. The intensity of development at the site of keeping.
- C. The potential for nuisance factors to abutters and the general public.
- D. Environmental concerns, and any other factors which may relate to public health and safety.
- E. The animal(s) is to be properly fed, watered and sheltered; fencing is to be adequate so as to contain the animal; manure is to be removed from pens, stables and corrals on a daily basis; the animal and any compost pile are to be maintained so as to minimize odor, flies and rodents; manure is to be composted and no raw manure is to be used on the property; a plan for composting and storing manure is to be submitted to the Health Department for approval; the permit is subject to annual review.

- 901 A permit to keep farm animals must be obtained from the Board of Health by any person wishing to keep one or more horses, ponies, donkeys, mules, sheep, cattle, swine, goats, or a gaggle or more than 3 fowl such as chickens, geese, turkeys, ducks and the like. The permit shall be issued for a period of up to one year and shall have conditions attached as deemed appropriate by the Board. Such permits may be renewed, but in granting a renewed permit, the Board reserves the right to add, modify, or remove any conditions(s) attached to the expiring permit as deemed appropriate in the Board's judgment.
- 902 Permits to keep one or more horses, ponies, donkeys, mules, bovines or other large animal will be granted (1) only after a public hearing of which abutters will have been legally notified in advance, and (2) only if the applicant has by deed, easement, and/or lease at least three-quarters of an acre (30,000 square feet) under his/her control at the site of the keeping of said animal(s).
- 903 The annual Permit to Keep Farm Animals shall run from January 1st to December 31st .
- 904 Owners of horses, ponies, donkeys, mules, bovines or other large animals must provide the Board of Health with evidence that the animal(s) has/have been vaccinated in accordance with all State requirements, when application is made for a Permit to Keep Farm Animals or a renewal thereof.
- 905 To preclude pollution of shellfish and recreational waters, the keeping of domestic waterfowl within 100 feet of any body of water is prohibited. All domestic waterfowl shall be penned.

1000 SOLID WASTE TRANSFER STATION

Authority: The following rules and regulations are promulgated under the authority of Chapter 111, Section 150A of the Massachusetts General Laws; the Wellfleet Charter, Chapter 5-7-2; and Wellfleet Board of Health Regulations.

Purpose: The Transfer Station is operated and maintained by the Town of Wellfleet for disposal of acceptable waste and recyclable materials which are generated within the boundaries of the Town of Wellfleet. All refuse and other wastes originating outside the town's boundaries are prohibited.

1001 Access to the Solid Waste Transfer Station

1. The Transfer Station will be open seven days a week from the third Wednesday in April through the third Thursday in October.
2. The Transfer Station will be open five days a week from the third Thursday in October until the third Wednesday in April. Days closed will be Wednesday and Thursday.

3. The Transfer Station will be closed on Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King Day, Presidents Day and Easter Sunday.
4. Hours of operation are from 8:00 a.m. until 4:00 p.m.
5. All vehicles must have a valid Wellfleet Transfer Station sticker, with the exception of residents or visitors who may purchase a one-time user fee. The one-time user fee allows disposal of a maximum of four 32-gallon bags of acceptable household waste. Proof of stay in Wellfleet may be required upon purchase.
6. All owners, operators, or persons in charge of a vehicle shall upon request submit evidence or answer questions concerning the origin or nature of the materials being disposed of.
7. In order to determine the acceptability and origin of such, all materials being disposed of at the Transfer Station are subject to inspection by the DPW Director or his/her designee.
8. Children under twelve years of age are not permitted out of vehicles at the Transfer Station.
9. Persons wishing to purchase a Transfer Station sticker during the last four months of the fiscal year shall be charged at the rate of \$15.00.
10. Use of the scale by commercial vendors for the sole purpose of determining load weights will incur a \$25.00 fee per use.

1002 Operation of the Transfer Station

1. The Director of the Department of Public Works (DPW) will take all necessary steps to ensure an effective level of facility operation and service.
2. The Director of the DPW or his/her designee may, at his/her discretion, close the Transfer Station when there is an equipment problem, or any other problem that makes transfer of refuse not feasible, or that may result in a health hazard.
3. All vehicles discharging refuse must stop at the gatehouse prior to unloading materials.
4. All materials accepted at the Transfer Station shall be placed in only those areas designated by the DPW Director or his/her designee.
5. The following items are prohibited from disposal into the refuse trailer, which is delivered to the SEMASS incinerator:
 - a) Brick, concrete, sheetrock, rock, sand, dirt, liquids of any composition, tree stumps or large timbers.
 - b) Metals, auto parts, motors, engines, closed containers, gas cans, tires and appliances. Not acceptable are any metal, glass, or plastic beverage containers that are returnable.
 - c) Any item over four feet long or twelve inches in diameter when rolled up or coiled, such as carpets, carpet pads, wood, snow fencing, chains, mattresses, etc.
 - d) Large bulky items over two feet square of any material.

- e) Long stringy material such as magnetic tape, metal banding, or a dedicated load of rags.
- f) Hazardous or toxic materials of any kind. This includes batteries, paint, solvents, motor oil, gasoline, explosives, sewage, chemicals, household cleaning fluids, hospital or biological waste, animal or human waste, nuclear or radioactive material, pesticides, fungicides, toxic materials utilized by artists and crafts people, etc.
- g) Combustible or non-combustible fluids of any type or composition.

Any questions regarding disposal of these materials should be directed to the DPW Director or the Transfer Station attendants.

- 6. SEMASS will accept waste ordinarily referred to as “household waste.” A minor amount of non-combustible material such as metal or glass food containers may be present.
- 7. Waste material generated by food establishments, municipal, professional and commercial offices, retail stores, etc. and destined for SEMASS is limited to those items that are combustible and conform to the dimensional restrictions in Section 1002.5.
- 8. Any unacceptable material found in any load intended for the SEMASS trailer will result in the rejection of the entire load, and/or will be subject to fine in accordance with Section 7003 of Wellfleet Board of Health Regulations as amended 1/25/00.
- 9. Ordinary household waste that is generated in a single-family dwelling will be accepted with a valid Wellfleet Transfer Station sticker, or with purchase of a one-time user fee.
- 10. Waste from hotels, motels, cottage colonies, condominiums, restaurants, commercial businesses and commercial refuse haulers is required to have a Commercial Wellfleet Transfer Station sticker, and will be assessed a fee based on the net weight of the load.
- 11. No unauthorized dumping, salvaging or foraging within the confines of the Transfer Station is permitted. This applies to residents of Wellfleet and to employees of the Town.
- 12. Restrictions on the use of the Transfer Station are as follows:
 - a) Brush will be accepted with a valid sticker and must be cut into sections no greater than six feet in length and two inches in diameter. No exceptions will be allowed. Brush will not be accepted from any landscapers, builders, or commercial entities.

NOTE: Permits for burning brush on one’s own property may be obtained at a nominal fee from the Fire Department during the period of January through April.

 - b) No stumps or logs will be accepted.
 - c) No automobiles will be accepted.
 - d) Metal only will be accepted in the scrap metal pile.
 - e) Disposal of tires from garages, service stations, and commercial enterprises is prohibited.

- f) Bulk metal, auto parts, motors, or engines are acceptable but subject to applicable fees.
- g) Boats will be accepted with a valid sticker as follows: metal boats, maximum length 16 ft. Wooden or fiberglass boats must be broken down into pieces no greater than 6 ft. in length or width, and disposed of in the construction pile, with payment of applicable fee. All metal hardware must be removed.
- h) It is the responsibility of the hauler to see that all items being discarded shall be cut to size and stripped of rubber, metal, oil or other materials and discarded in specified areas.
- i) Used oils will be accepted from Wellfleet residents (no garages or commercial entities). Used oil may not be mixed with chemicals, solvents, paints, or toxic materials. See the attendant on duty for access to the waste oil tank and/or any questions.
- j) Disposal of any waste originating from outside the Town of Wellfleet is strictly prohibited.

13. No refuse, household trash or large discarded items are to be left at the Transfer Station gate, or deposited on any road, wetland, or vacant property within the Town of Wellfleet. It is contrary to State law and to local bylaws and regulations to use any property other than the Transfer Station for the storage of refuse or discarded items of any size or type.

1003 Recycling

1. Refer to Attachment A for information regarding materials that must be recycled and how to prepare them for delivery to the Transfer Station.
2. Vehicles not having a valid Transfer Station sticker that are driven by residents, non-resident taxpayers, or visitors of Wellfleet will be admitted to the Recycling Area of the Transfer Station for the sole purpose of depositing acceptable items for recycling. This does not include access to the Swap Shop.
3. The Town will maintain a Swap Shop for the use of Wellfleet residents only. At all times, items to be left off at the Swap Shop are subject to approval of the attendant on duty. Items must be in at least fair and reusable condition. Appliances and other bulky items may be subject to the normal fee for those items. Proof of residency in Wellfleet will be required.
4. As a service to the community and to support recycling, the Transfer Station will provide space for a Salvation Army and/or Goodwill collection box.
5. An area at the Transfer Station will be provided for non-profit organizations to place bins for the collection of refundable beverage containers.

1004 Construction and Demolition Waste

1. The Transfer Station will accept the following items for the construction & demolition area. These items will incur a separate fee (refer to current fee schedule), and a valid Transfer Station sticker is required.

- a) Construction waste, including sheetrock, bricks, asphalt and wood shingles, windows, doors and scrap lumber which is cut into six-foot lengths.
- b) Mattresses, box springs, sofas, chairs and other furniture, carpets
- c) Other bulky items subject to approval of the DPW Director and/or the attendant on duty.

1005 Stickers are valid from the first day of July until the last day of June of the succeeding year.

1. The Fee Schedule for the Wellfleet Transfer Station is to be reviewed annually, prior to June 1st, by the Board of Health with input from the Director of the Department of Public Works.
2. Payment of billed accounts is due within thirty days. After thirty days, an interest rate the same as the current rate charged by the Tax Collector will be applied to any unpaid balance. After sixty days of non-payment, the permit to use the Transfer Station will be suspended until past due payment has been made in full.

1006 If a dispute arises as to the interpretation, application or enforcement of any of the preceding regulations, then the Director of Public Works or his/her designee will adjudicate. If the dispute cannot be resolved to the satisfaction of both parties, a hearing with the Board of Health may be scheduled.

1007 Whoever violates for any reason any provision of these rules and regulations as defined in Sections 1001.0 through 1006.0 shall be punished by a fine in accordance with Section 7003 of the Wellfleet Board of Health Regulations as amended 1/25/00.

1008 If any section, paragraph, sentence, clause or phrase of these rules and regulations should be ruled invalid for any reason whatsoever, such decision shall not affect the remaining portions of these rules and regulations, which shall remain in full force and effect; and to this end the provisions of these rules and regulations are hereby declared severable.

2000 RULES AND REGULATIONS GOVERNING THE PRACTICE OF MASSAGE AND/OR MUSCULAR THERAPY

(These Rules and Regulations are hereby adopted by the Board of Health of the Town of Wellfleet on June 11, 1990, and, having been advertised, will take effect on September 15, 1990.)

The following Rules and Regulations governing the licensing and practice of massage/muscular therapy and the operation of an establishment in which massage/muscular therapy is performed are promulgated under the authority of Chapter 111, Section 31 and Chapter 140, Sections 51-53 of the Massachusetts General Laws.

2001 "Massage or muscular therapist" shall mean any person who has been trained in the art of massage/muscular therapy and who has completed a program of instruction in massage/muscular therapy approved by the Massachusetts Board of Education.

- 2002 No person under the age of eighteen years shall be considered as qualified to be licensed as a massage/muscular therapist.
- 2003 “Massage/Muscular Therapy” shall mean a method of applying pressure on or friction against, rubbing, kneading, tapping, pounding or stroking parts of the body with the hands and arms; with or without the aid of other devices used manually or electrically activated, such as a vibrator, with or without supplementary aids such as the application of heat or cold, rubbing alcohol, liniments, oils, creams, lotions, powders, or similar preparations; for the purpose of reducing tension, stimulating circulation, and generally providing for an increase in a person’s health and well-being.
- 2004 The practice of massage/muscular therapy shall exclude any procedures which puncture, pierce, or, in any manner, penetrate the epidermal layer; utilize high-frequency sound (ultra-sonic), or diathermic equipment.
- 2005 No person shall engage in the practice of massage/muscular therapy, or conduct an establishment for the giving of massage/muscular therapy, or advertise or hold himself/herself out as being engaged in the business/profession of massage/muscular therapy in the Town of Wellfleet without having received a license from the Wellfleet Board of Health.
- 2006 Any person desiring to practice massage/muscular therapy shall make written application on a form provided by the Wellfleet Board of Health and provide proof of insurance.
- a) The application for the original license must include a certified copy of proof of graduation from a school of massage or muscular therapy approved by the Commonwealth of Massachusetts Department of Education,
- (b) or, proof of graduation from a school of massage or muscular therapy certified by the Board of Education in the state in which the school is located.
- (c) The applicant must show certification yearly that he or she is free of any communicable disease, as set forth by the Department of Public Health in the Commonwealth of Massachusetts, and evidence satisfactory to the Wellfleet Board of health of moral and physical fitness.
- 2007 The fee for a license to practice massage/muscular therapy shall be set by the Board of Health. This license is renewable on a yearly basis, on the first of January, and is not transferable.
- 2008 The fee for a license to operate an establishment for the giving of massage/muscular therapy shall be set by the Board of Health and shall expire on December 31st of each year. This license is not transferable.
- 2009 The licensing provisions of these regulations shall not apply to classes of individuals who, in the performance of their respective professions, may engage in massage/muscular therapy as defined in these Regulations and who are duly licensed to practice their respective professions by and in the Commonwealth of Massachusetts or who are

employed in institutions duly licensed by the Commonwealth of Massachusetts, or coaches and athletic trainers acting within the scope of their employment by schools or educational institutions accredited by the Commonwealth of Massachusetts.

- 2010 Any establishment offering massage/muscular therapy shall apply for a license from the Wellfleet Board of Health on a form so provided. It is the responsibility of the licensee to apply for a renewal prior to the expiration of the existing license.
- 2011 The operating requirements for an establishment licensed to practice massage/muscular therapy shall adhere to the following operating requirements:
- (a) All rooms shall be well lighted, ventilated, and be maintained in an orderly and sanitary condition.
 - (b) Adequate means shall be provided for the cleansing and sterilizing of all instruments and utensils and, where required, for the cleansing and sterilization of the skin or flesh of the patron undergoing therapy.
 - (c) Robes, sheets, blankets, and pillowcases which come into direct contact with the skin of the patrons, and all towels and napkins, after being used and before being used again, shall be laundered in such a manner and under such conditions as to ensure effective sterilization.
 - (d) No unsterilized part of a vibrator or other mechanical appliance, instrument or device shall be applied directly to the skin of the patron, but the part of the body being treated shall be covered with a clean towel or else the instrument shall be covered in a similar manner.
 - (e) No sponge, or stick alum, nor any other article, lotion or powder likely to be unsterile or unsanitary shall be applied to the skin or to any cut or wound.
 - (f) Disposable towels and coverings shall not be re-used. Soiled linens and disposable items shall be deposited in separate covered receptacles and shall be disposed of or laundered in an approved sanitary manner as often as necessary.
 - (g) Any room used for the purpose of administering massage/muscular therapy must be dedicated to and for such use and must be situated adjacent to a bathroom containing an adequate supply of hot and cold running water.
 - (h) Every person licensed to practice massage/muscular therapy shall thoroughly cleanse his/her hands by washing immediately before serving any patron.
 - (i) No establishment licensed for the giving of massage/muscular therapy shall be kept open or operate except between the hours of 8:00 a.m. and 9:00 p.m. unless authorized in writing by the Wellfleet Board of Health.
 - (j) Operating behind locked doors is held to be in violation hereunder. Any and all establishments licensed and operating under the authority of these Regulations shall not have any doors to any rooms, exits or entrances of said establishment locked or obstructed in any way so as to prevent free ingress or egress of persons.
 - (k) Any establishment permitted to operate under authority of these Regulations shall post in a conspicuous place within such establishment a schedule of hours. The Health Officer shall be notified of such schedule of hours and of any changes in such schedule. Such establishment shall be open and accessible for inspection during business hours by agents of the Massachusetts Department of Health, or any member of the Wellfleet Police Department, the Fire Department, the Health Officer, or any

member of the Town Licensing Authority as provided in MGL, Chapter 140, Section 52.

- (l) All persons in such establishment engaged in the practice of massage/muscular therapy shall hold a valid license from the Wellfleet Board of Health.
- (m) Every person licensed to practice massage/muscular therapy or to operate an establishment for the giving of massage/muscular therapy will be issued a certificate to that effect which will bear the signature of the licensee and the licensee shall have these certificates in his/her possession or posted on a wall, whichever is applicable, whenever or wherever he/she may be engaged in the practice of massage/muscular therapy, and when requested, shall show such certificate to any legally authorized public official.

2012 Massage/Muscular Therapy may be administered on request to ill, infirm, disabled persons or persons without transportation at their legal residence within the Town of Wellfleet by a therapist licensed to practice massage/muscular therapy in the Town of Wellfleet and who holds a license to do business in the Town of Wellfleet.

2013 Massage/Muscular Therapy, when administered outside of a duly licensed establishment within the Town of Wellfleet, is subject to the same rules and regulations that apply to the practice of massage/muscular therapy in an establishment holding a license to do business in the Town of Wellfleet.

2014 Whoever violates for any reason any provision of the Rules and Regulations defined in paragraphs numbered 2000 through 2015 shall be punished by a fine of not more than one hundred dollars (\$100.00) or imprisonment for not more than six months or both in accordance with MGL, Chapter 140, Section 53.

2015 If any action, paragraph, sentence, clause or phrase of these Rules and Regulations should be ruled invalid for any reason whatsoever, such decision shall not affect the remaining portions of these Regulations, which shall remain in full force and effect; and, to this end, the provisions of these Regulations are hereby declared severable.

3000 MISCELLANEOUS REGULATIONS

3001 All commercial establishments must have automatic pilots on their gas appliances, with 100% shutoffs. Any appliance found unsafe will be subject to removal. This applies to all preexisting appliances.

4000 TOBACCO CONTROL REGULATIONS

4001 Statement of Purpose:

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and whereas more than eighty percent of all smokers begin smoking before the age of eighteen years (Centers for Disease Control and Prevention, "Youth Surveillance - United States 2000," 50 MMWR 1

(Nov. 2000); and whereas nationally in 2000, sixty nine percent of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes (Id.); and whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and whereas despite State laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; now, therefore it is the intention of the Wellfleet Board of Health to curtail the access of tobacco products by minors.

4002 Authority:

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

4003 Definitions:

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

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Employee: Any individual who performs services for an employer.

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

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

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

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

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

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

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

4004 Tobacco Sales to Minors Prohibited:

1. No person shall sell tobacco products or permit tobacco products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco products to a minor.
2. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Wellfleet Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.
3. Identification: Each person selling or distributing tobacco products shall verify the age of the purchaser by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is 18 years old or older. Verification is required for any person under the age of 27.
4. All retail sales of tobacco must be face-to-face between the seller and the buyer.

4005 Sales Permit:

1. No person shall sell or otherwise distribute tobacco at retail within Wellfleet without first obtaining a tobacco sales permit issued annually by the Wellfleet Board of Health.
2. As part of the tobacco sales permit application process, the applicant will be provided with the Wellfleet Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco sales regarding both State laws regarding the sale of tobacco and this regulation.
3. Each applicant is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a tobacco sales permit can be issued.
4. The fee for a tobacco sales permit shall be determined by the Wellfleet Board of Health and Wellfleet Board of Selectmen. All such permits shall be renewed annually by January 1.
5. A separate permit is required for each retail establishment selling tobacco.
6. Each tobacco sales permit shall be displayed at the retail establishment in a conspicuous place.
7. No tobacco sales permit holder shall allow any employee to sell cigarettes or other tobacco products until such employee reads this regulation and State laws regarding the sale of tobacco

and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable State laws.

8. A tobacco sales permit is non-transferable, except a new permit will be issued to a retailer who changes location.

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

4006 Out-of-Package Sales:

No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

4007 Self Service Displays:

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

4008. Tobacco Vending Machines:

All tobacco vending machines are prohibited.

4009 Violations:

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

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

b. In the case of a second violation within 18 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the tobacco sales permit shall be suspended for seven (7) consecutive business days.

c. In the case of three or more violations within an 18 month period, a fine of three hundred dollars (\$300.00) and the tobacco sales permit shall be suspended for thirty (30) consecutive business days.

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

3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products directly to a consumer while his or her permit is suspended shall

be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days.

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

5. Any permit holder who does not pay the assessed fine within twenty-one (21) days from fine issuance may be subject to criminal proceedings.

4010 Non-Criminal Disposition:

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

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

4011 Enforcement:

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

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

4012 Severability:

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

4013 Effective Date:

This regulation shall take effect on January 1, 2007.

5000 REGULATIONS OF THE STATE OF MASSACHUSETTS

The following regulations are incorporated into this document:

- A. 105 CMR 123.000, Tanning Facilities

- B. 105 CMR 410.000, Minimum Standards of Fitness for Human Habitation: State Sanitary Code, Chapter II
- C. 310 CMR 22.00, Massachusetts Drinking Water Regulations
- D. 310 CMR 15.000, State Environmental Code, Title 5
- E. 105 CMR 590.000 – 595.000, Vending Machines and State Sanitary Code for Food Establishments, Article X
- F. 105 CMR 435.000, State Sanitary Code, Chapter V, Minimum Standards for Swimming Pools.

6000 TEMPORARY REGULATIONS

6001 (Moratorium adopted 12/16/85 by the Board of Selectmen acting as the Board of Health on approval of well and septic system permits on certain parcels of land.) Regulation rescinded in its entirety.

7000 PROCEDURES

7001 The Board of Health shall establish fees for the activities under its jurisdiction, and maintain, for public inspection, a current schedule of such fees.

7002 Variances

Requests for variance from Title 5 and/or the Wellfleet Board of Health Regulations must be made in writing, and must state the specific variance(s) sought and the reasons therefore. This letter shall be accompanied by a list of all abutters. Abutters are to be notified by the applicant per current Board of Health procedures of the time and place of the hearing during which the request will be heard. (Abutters must be notified 10 days in advance of the hearing by certified mail and proof of notification must be presented at the time of the hearing.) When the applicant wishes to install a septic system, the letter requesting the variance(s) shall be accompanied by (1) an application for a Disposal Works Construction Permit and payment for said permit, (2) engineered plans for the proposed disposal system, (3) floor plans for the building(s) to be served, (4) well water test results, (5) well construction record when a new well is involved. These materials must be in the Health Department at 12:00 PM a minimum of 1 week prior to the meeting date.

7003 Violations

The Board of Health will consider that a regulation is being violated and initiate penalties as indicated ten (10) days after the second written notice of violation is mailed.

- A. Criminal Complaint – Whoever violates any provision of these rules and regulations may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and, as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$300 for each offense.

- B. Non-Criminal Disposition – Whoever violates any provision of these rules and regulations may, in the discretion of the Health Agent, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of General Laws, Chapter 40, Section 21D. For the purpose of this provision shall be as follows: \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.
- C. Violation of Board of Health Regulations may result in the suspension, revocation or alteration of local licenses or permits. (Alterations may include restrictions based on occupancy loading, including, but not necessarily limited to the number of bedrooms, restaurant seats or other mechanisms of protecting Public Health.

7004 Any person aggrieved by a decision of the Board of Health, or by the failure of the Board to act, may appeal to Superior Court, Barnstable County, pursuant to the provisions of Massachusetts General Laws.

8000 FEE SCHEDULE
(revised 9-22-05)

Commercial Septic Construction Permit (new construction)	\$150.00
Commercial Septic Construction Permit (varianced)	\$250.00
Commercial Septic Construction Permit (upgrade)	\$100.00
Commercial Septic Construction Permit (simple repair)	\$ 75.00
Residential Septic Construction Permit (new construction)	\$125.00
Residential Septic Construction Permit (varianced)	\$200.00
Residential Septic Construction Permit (upgrade)	\$ 75.00
Residential Septic Construction Permit (simple repair)	\$ 50.00
Reinspection	\$ 50.00
Well Construction/Replacement Permit	\$ 50.00
Soil Evaluation (perc test)	\$ 50.00
Housing Inspection* (per unit)	\$ 60.00
Food Establishment	\$ 50.00
Temporary Food Establishment	\$ 25.00
Septic Installers	\$100.00
Septage Haulers	\$100.00
Refuse Haulers	\$100.00
Motel/Cabin/Trailer Park Permit	\$ 50.00
Commercial Pool Permit	\$ 50.00
Massage License	\$ 25.00
Tobacco	\$ 25.00
Funeral Director	\$ 2.00
Animal Permit**	\$ 3.00
Stable Permit	\$ 25.00

* Payment of housing inspection fees are the responsibility of the property owner, even when requested by the tenant.

** One permit required per single horse pony, cow, pig or other large animal, and one permit per every 3 fowl.

ATTACHMENT A
RECYCLING

The following items must be separated for recycling and are accepted at the Transfer Station:

PAPER

- Newspapers / inserts
- Corrugated cardboard, flattened
- No soiled paper
- No plastic bags or waxed cardboard

GLASS

- Glass bottles and jars – clear, green and brown
- Rinse clean, remove lids and corks but neck rings, collars & labels may stay on
- No broken glass or other glass items such as window glass, mirrors, dishes, glasses, Pyrex, ceramics, or light bulbs

METAL

- Tin, steel and aluminum cans and lids
- Deposit and non-deposit beverage cans
- No aluminum foil
- Rinse clean, may flatten, labels may stay on
- No cans containing aerosol or paint

PLASTIC

- Plastic containers labeled 1 and 2 (check bottom of container for number)
- Empty and rinse containers clean, flatten
- No plastic bags or unmarked plastic

YARD WASTE

- Grass, leaves and other easily raked material, loose only – no bags
- Christmas trees
- Branches no larger than 6' length and 2" diameter
- No stumps or vines

BULK METAL

- Large metal items, all rubber removed / extra fee applies
- Appliances – remove doors / extra fee applies

AUTOMOTIVE

- Tires – remove rims / extra fee applies
- Car batteries
- Motor oil
- Antifreeze

SCRAP WOOD

- Clean wood only – no paint or nails
- No particle board

PAINT

- Paints accepted for recycling on the third Saturday of each month, April through October
- Latex and oil based paints