

Buckland Regulation of Environmental Impact

Board of Health Regulation

I. Legal Authority, Purpose, and Related Provisions:

(1) The purpose of this regulation is to provide for the protection of public health, safety, welfare and the environment by providing a mechanism that may be utilized at the discretion of the Board of Health when, in their opinion, it is necessary and appropriate in order to protect public health, including those resources protected by the Public Trust Doctrine enshrined in Article 97 of the Massachusetts Constitution.

“The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.”

(2) This regulation is promulgated pursuant to the authority of M.G.L. c. 44, § 53G, and c. 111, § 31.

(3) The provisions of these regulations shall apply to M.G.L. c. 111, § 143, as well as other pertinent laws, regulations, and programs under the purview of the Board of Health.

(4) These regulations should be read together with M.G.L. c. 21A, § 13, M.G.L. c. 21 §§ 26 through 53, M.G.L. c. 111, §§ 17, 27, 27A, 27B, 27C, 30, 31, 31A, 31B, 31C, 31D, 31E, 122, 124, 125, 125A, 127, 127A, 127P, 127B and 129; M.G.L. c. 83, § 11; and M.G.L. c. 131, § 40.

II. Buckland Board of Health: Regulation of Environmental Impact:

Pursuant to MGL Chapter 111 Sections 31 and 143 the Buckland Board of Health on January 13, 2016 voted to adopt the **Regulation of Environmental Impact**. This regulation is intended to provide protection of the public's health, safety, welfare and the environment by providing a mechanism that may be utilized at the discretion of the Board of Health.

1. It is resolved that **Any** activity or trade or business that has the potential of causing noisome trade as defined as that which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors which desires to be established in the Town of Buckland shall apply to the Board of Health for site assignment. Such application may be required to include an Environmental Health Impact Report which shall include an independent narrative and plans with preconstruction study of

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Janice D. Ington
Buckland Town Clerk

environmental levels and projected changes in levels by the business. The activity or trade or business shall have the burden of proof that there is clear and convincing evidence that the proposed work, activity or business shall not have unacceptable, significant individual or cumulative adverse effect upon the public or environmental health.

2. If, after receiving an application, a proposal, a request for assignment or other request for review or sign-off, the Board of Health determines that in order to deliberate and decide any issue raised by an applicant that it requires technical advice, it may employ outside consultants in accordance with the provisions of MGL Chapter 44 Section 53. The Board of Health may require that the applicant pay a reasonable consultant fee for the employment of outside consultants chosen by the Board of Health.

3. Based on the information obtained, the Board of Health may at its discretion deny site assignment and prohibit the exercise of the activity or trade or business at the proposed location and/or within the Town of Buckland or in places not so assigned.

III. Appeal of Site Assignment:

1. Any persons, including persons in control of public land, aggrieved by the action of the Buckland Board of Health in assigning certain sites or places for the exercise of any noisome trade may, within sixty (60) days, appeal from said decision to the Massachusetts Department of Environmental Protection (MA DEP).

IV. Orders of Prohibition:

1. Any order of prohibition issued by the Board under this regulation and, pursuant to MGL Chapter 111 Section 143, shall be served by an officer qualified to serve civil process. Whoever is aggrieved by an order of prohibition may, within three (3) days after service of such order upon him or her, give written notice of appeal to the Board of Health or DEP and file an appropriate petition in Superior Court in Franklin County.

V. Complaint by Citizen Petition:

1. In addition to the initiation mechanism outlined in **Section II**, the Board of Health may also accept a formal petition submitted by 10 residents of the Town, in which sufficient rationale is given for the initiation of an Environmental Impact Review. The determination of whether sufficient rationale has been provided shall be at the discretion of the Board of Health. The petition must be submitted to the Board at a properly posted meeting. If accepted, the Board of Health shall vote to approve or reject the formal petition within 45-days of said acceptance. The written determination by the Board shall be made within 60-days of the acceptance of the Citizen Petition and shall include

findings as to the rationale(s) presented in the Citizen Petition. If the Board votes to approve the Citizen initiated review, the process outlined in **Section II** shall be followed.

VI. Fees:

1. The Board of Health may assess reasonable fees for permits, licenses, inspections, and oversight services issued or performed by the Board or its representatives in the execution of its responsibilities, pursuant to M.G.L. c. 40 § 22F.

2. A written schedule of fees shall be maintained by the Board of Health and may be amended from time to time, as needed, by simple vote of the Board of Health at any properly convened public meeting.

VII. Severability:

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

VIII. Effective Date:

This regulation was adopted by vote of the Buckland Board of Health on January 13, 2016, the effective date of these regulations. A public hearing on these regulations was held on January 13, 2016. First publication of notice of public hearing was made on December 31, 2015 in the Greenfield Recorder, and second notification was made on January 6, 2016 in the Greenfield Recorder.

A True Copy
Attest: *Janice D. Purington*
Janice D. Purington
Buckland Town Clerk

| Name | Signature | Date |
|-----------------|------------------------|---------|
| James Bauerlein | <i>James Bauerlein</i> | 1/13/16 |
| Richard Warner | <i>R Warner</i> | 1/13/16 |
| Terry Estes | | |

Adopted by the above on January 13, 2016 at a posted Board of Health meeting. public hearing was held on January 13, 2016.

