



TOWN OF COHASSET
Board of Health
41 Highland Avenue
Cohasset, Massachusetts 02025



Public Health
Prevent. Promote. Protect.

Board of Health

Margaret S. Chapman, APRN-BC, Chairperson
Robin M. Lawrence, DDS, MPH, Clerk
Elizabeth Kirkpatrick

Health Administrator / Inspector
Felix I. Zemel, MCP, MPH, REHS/RS

Public Health Nurse
Mary Goodwin, RN

Contact Information

Tel: (781) 383-4116
Fax: (781) 383-4111
Email: boh@cohassetma.org

COHASSET BOARD OF HEALTH NUISANCE REGULATION

TABLE OF CONTENTS

Section 1:	Authority and Purpose
Section 2:	Definitions
Section 3:	Nuisances Prohibited
Section 4:	Administration
Section 5:	Enforcement
Section 6:	Hearings
Section 7:	Variations
Section 8:	Severability
Appendix 1:	Definitions
Appendix 2:	Examples of Nuisances & Exclusions

SECTION 1: AUTHORITY AND PURPOSE

- Authority.** These regulations shall be effective on **MAY 1, 2013**, and shall remain in effect until modified or amended by the Board of Health of the Town of Cohasset. These regulations are enacted under the authority of the Massachusetts General Laws, Chapter 111, Sections 31 and 122-125.
- Purpose.** These regulations are intended to prevent all nuisances, sources of filth and causes of sickness that may be injurious to the health, safety or welfare of the inhabitants of the Town of Cohasset.

SECTION 2: DEFINITIONS

Please see Appendix 1 of this regulation, as amended, for related definitions

SECTION 3: NUISANCES PROHIBITED

1. No person shall perform any act(s) that may result in the creation of a nuisance in the Town of Cohasset;
2. Specific examples of conditions resulting in a nuisance, as well as exclusions from this regulation are listed in Appendix 2 of this regulation.
PLEASE NOTE: Appendix 2 is not all-inclusive. Failure to list a specific condition in Appendix 2 does not mean that it does not constitute a nuisance, pursuant to these regulations.

SECTION 4: ADMINISTRATION

4.01: Duty to Investigate

1. The Board of Health shall investigate all complaints of a possible nuisance that are filed with the Board of Health.
2. Nothing in section 4.01 shall restrict the Board of Health from investigating and enforcing of a potential nuisance that is discovered not as a result of a complaint.

4.02: Coordination with other Departments

The Board of Health may seek the assistance of other departments, as needed in order to enforce the relevant provision of this regulation in accordance with all federal, state and local laws and regulations.

4.03: Right of Entry

After being granted Permission to Enter from the Owner or Occupant, or being issued an Administrative Search Warrant from a Court of Competent Jurisdiction, the Board of Health (or its agent) shall have the authority to enter upon privately-owned land for the purpose of performing its duties as they relate to the administration, investigation, review and enforcement of this regulation, and may make or cause to be made such examinations, surveys or samples as the Board of Health deems necessary

SECTION 5: ENFORCEMENT

5.01: Enforcement Authority

Enforcement actions may be commenced by the Board of Health, the Cohasset Police Department, the Cohasset Building Department, and any other agency, department or individual authorized to act on behalf of the Board of Health.

5.02: Order to Correct

Upon documenting evidence of a violation of this regulation, an order to correct shall be issued, as follows, and shall be served in accordance with the provisions of Section 5.04:

1. every order shall be in writing;
2. every order shall include a clear description of the violation(s), condition(s) or defects;
3. every order shall include notice of the right to an administrative hearing in front of the Board of Health, and the deadline and proper procedure(s) for application for said hearing;
4. every order shall notify the responsible party of its right to inspect and obtain copies of all relevant inspection or investigation reports, orders, notices and other documentary information that is in the possession of the Board of Health;
5. every order shall notify the responsible party that it has a right to have representation any and all hearings, and that any affected party has a right to appear (and be heard) at said hearing;
6. every order shall indicate the time limit for compliance, not to be less than twenty-four (24) hours nor more than one-hundred eighty (180) calendar days from the date of service of said Order to Correct; and
7. shall include the following statement translated into any non-English language that is spoken as a primary language by greater than 1% of the population of the Town of Cohasset:

"This is an important legal document. It may affect your rights. You should have it translated"

5.03: Emergency Procedures

Whenever an emergency exists in which the interest of protecting the public health requires that ordinary procedures be dispensed with, the Board of Health or its authorized agent, acting in accordance with the provisions of M.G.L. c.111, § 30, may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as the Board of Health deems necessary to meet the emergency. Notwithstanding any other provision of any other federal, state or local statute, ordinance, regulation or other law, any person to whom such an order is directed shall comply therewith within the time specified in the order. Each day's failure to comply with the order shall constitute a separate offense. Upon compliance with the order and within seven (7) calendar days after the day the order has been served, he may file a written petition in the office of the Board of Health requesting a hearing. He shall be granted a hearing as soon as possible, but not later than ten (10) business days after the filing of the petition. The procedures for such hearing shall otherwise conform with the hearing requirements which would have existed had the order been issued under non-emergency circumstances (adapted from 105 CMR 400.200)

5.04: Service of Orders

All Order(s) to Correct shall be served upon the Responsible Party, as follows:

1. personally by any person authorized to serve civil process; or
2. leaving a copy at his last and usual place of abode by a person authorized to serve civil process; or
3. by sending the responsible party a copy by registered or certified mail, return receipt requested, if he is within the Commonwealth of Massachusetts; or
4. if his last and usual place of abode is unknown or outside of the Commonwealth of Massachusetts, by posting a copy in a conspicuous place on or about the dwelling or portion thereby affected

5.05: Parties Receiving Notice

Irrespective of any public requests for copies of records and service to Responsible Parties, all notices shall be sent to the following parties by first class mail or parcel post:

1. the property owner(s) of any effected parcel;
2. the occupant(s) of any effected parcel;
3. all mortgage holders of record for the effected parcel;
4. all lien holders of record for the effected parcel; and
5. the complainant, if known, and wishes to be copied on all findings and correspondence.

5.06: Penalty for Failure to Comply with an Order to Correct

Any person failing to comply with an Order to Correct, which was issued and served pursuant to the provisions of this regulation shall be assessed a fine to be determined by the Board of Health, subject to any Rules and Regulations regarding Non-Criminal Disposition (M.G.L. Chapter 21D), or the like. Each day's failure to comply with an Order to Correct shall constitute a separate offense.

5.07: Removal of nuisance by Board of Health

If the Responsible Party fails to comply with an Order to Correct, the Board of Health may cause the nuisance to be abated, and all expenses incurred thereby shall constitute a debt due to the Town of Cohasset.

5.08: Additional remedies available to affect compliance

If the Responsible Party fails to comply with any Order to Correct, the Board of Health may petition a court of competent jurisdiction for an injunction or a court order, requiring the Responsible Party to affect compliance with this regulation.

SECTION 6: HEARINGS

6.01: Request for a Hearing

No more than ten (10) calendar days after the effective date of service of an Order to Correct, a Responsible Party may request a hearing before the Board of Health by filing an written request for said hearing at the Board of Health office.

6.02: Scheduling of a Hearing

Upon receipt of a written request for a hearing, the Board of Health shall set a time and place for the requested hearing. Said hearing shall be commenced within thirty (30) calendar days of the receipt of the hearing request. The Board of Health shall notify, in writing, all interested parties of the date, time and place of the hearing and of their right to inspect and copy the Board of Health's file concerning the matter to be heard.

6.03: Hearing Procedures

At the hearing, all affected parties shall be given an opportunity to be heard, to present witnesses or documentary evidence, and to show why an order should be modified or withdrawn. Failure to hold a hearing within the time period specified herein shall not affect the validity of any order.

6.04: Final Decision After Hearing

The Board of Health shall sustain, modify, or withdraw the order and shall inform the Responsible Party, in writing, of its decision within not more than seven (7) days after the conclusion of the hearing. If the Board of Health sustains or modifies the order, it shall be carried out within the time period allotted in the original order or in the modification

6.05: Failure to Request a Hearing

If a written request for a hearing is not filed with the Board of Health within the appropriate time provided for in Section 6.01, or if after a hearing the order has been sustained in whole or part, each day's failure to comply with the Order to Correct, as issued or modified, shall constitute an additional offense.

6.06: Official Hearing 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 Town Clerk or in the Board of Health Office.

6.07: Appeal of Final Decision(s)

Any person aggrieved by the final decision of the Board of Health with respect to any order issued under the provisions of this regulation may seek relief therefrom in any court of competent jurisdiction, as provided by the Laws of the Commonwealth of Massachusetts. Said request for relief must be filed with the appropriate court of competent jurisdiction within one (1) calendar year of the date of service of the Order to Correct or date of final decision, whichever is later.

SECTION 7: VARIANCES

7.01: General Provisions

The Board of Health may vary the application of any provision of this regulation with respect to any particular case when, in its opinion, strict enforcement thereof would result in a manifest injustice. All variances issued by the Board of Health shall comply with the following general provisions:

1. the decision of the Board of Health shall not conflict with the spirit of this regulation or any other applicable statute, code or regulation;
2. such variance may only be granted after notice is given to all affected parties;
3. such variance may only be granted after the completion of a hearing, as described in Section 6 of this regulation;
4. any variance granted by the Board of Health shall be in writing;
5. a variance is not transferrable between owners;
6. any variance granted by the Board of Health shall not be in effect until such time that notice of said variance is recorded by the owner in the Norfolk County Registry of Deeds or Norfolk County Land Court, if the Responsible Party is the owner of the property; and
7. a copy of any variance issued by the Board of Health shall be available for public viewing at all reasonable hours in the office of the Board of Health.

7.02: Modification, Revocation, and Suspension of Variance(s)


1. Any variance may be subject to qualification, revocation, suspension or expiration, as the Board of Health expresses in its grant of the variance;
2. A variance may be modified, revoked or suspended at any time, in whole or in part, by complying with the following provisions:
 - a. Unless modification, revocation or suspension of the variance is as a result of an emergency, notification shall given to all interested parties, in writing, at least seven (7) calendar days prior to any action taking place by the Board of Health;
 - b. Said notification shall grant all interested parties an opportunity to be heard, in conformity with the requirements for an order and hearing, as described in Sections 6 and 7 of this regulation.

SECTION 8: SEVERABILITY

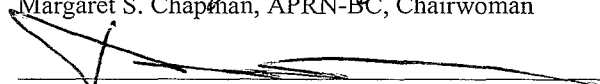
If any clause, section, paragraph, sentence or phrase of these rules and regulations shall be deemed invalid for any reason whatsoever, such decision shall not effect the remaining portions of this regulation, which shall remain in full force and effect, and to this end the provisions of this regulation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

SIGNED THIS THE 9TH OF APRIL IN THE YEAR 2013

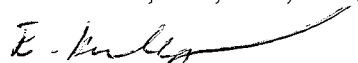
COHASSET BOARD OF HEALTH



Margaret S. Chapman, APRN-BC, Chairwoman



Robin Lawrence, DDS, MPH, Clerk



Elizabeth Kirkpatrick, Member



TOWN OF COHASSET
Board of Health
41 Highland Avenue
Cohasset, Massachusetts 02025



Public Health
Prevent. Promote. Protect.

Board of Health

Margaret S. Chapman, APRN-BC, Chairperson
Robin M. Lawrence, DDS, MPH, Clerk
Elizabeth Kirkpatrick

Health Administrator / Inspector
Felix I. Zemel, MCP, MPH, REHS/RS

Public Health Nurse
Mary Goodwin, RN

Contact Information

Tel: (781) 383-4116
Fax: (781) 383-4111
Email: boh@cohassetma.org

APPENDIX 1: DEFINITIONS

Abate or Abatement. The removal or discontinuance of a nuisance, or the making of improvements needed to affect the rehabilitation of a property in order to bring it into compliance with existing health regulations, and to maintain safe and habitable conditions over the remaining useful life of the property.

NOTE: The boarding-up of a structure shall not be considered an abatement of a nuisance

Animal. A living, non-human organism having sensation and the power of voluntary movement and requiring for its existence oxygen and organic food. The term does not include fish or aquatic animals.

Board of Health. The members of the Board of Health of the Town of Cohasset, its agent(s), inspector(s), health administrator, and any other designee of the Board of Health of the Town of Cohasset.

Building. A structure, whether portable or fixed, with exterior walls or firewalls of a roof, built, erected or framed, of a combination of any materials, to form shelter for person(s), animal(s) or property.

Compliance. See “abate or abatement” above.

Compost Bin. Any device constructed for the orderly and proper decomposition of raw vegetable matter, leaves, grass clippings and other yard waste. The bin shall be constructed of wood, wire, plastic, metal, or other material as deemed acceptable by the Massachusetts Department of Environmental Protection.

Dilapidated. A condition of decay or partial ruin by reason of neglect, misuse, or deterioration.

Emergency. Unforeseen circumstances requiring prompt action to prevent, avoid or minimize any significant possibility of loss of life, serious injury, transmission of infection disease, or significant damage to real estate, as determined by the Board of Health.

Garbage or Offal. All solid, semisolid, and liquid putrescible animal and vegetable waste including such waste from, or derived from, the handling, preparation, cooking, consumption or cultivation of food and containers and cans containing food and food waste.

Hazard. A condition likely to expose persons to injury, or property to damage, loss or destruction

Interested Parties. In connection with the notification requirements of this regulation, “interested parties” are the Board of Health, owner(s) and/or occupants of property which is the subject of a hearing; owners and/or occupants of property directly opposite the subject property or any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of property abutting, and that is within one hundred (100) feet of, the property line of the subjected property. Other persons who own or occupy property and who demonstrate to the satisfaction of the Board of Health that they are affected by the condition of the property or building that is the subject of a hearing may be regarded as “interested parties” by the Board of Health.

Junk. All scrap copper, glass, lead, or any other nonferrous metal; iron, steel, or other scrap ferrous material; tinware, plastic, or discarded household goods, rope, rags, crockery, batteries, paper, trash, rubber debris, building materials; dismantled or inoperable vehicles, machinery and appliances or parts thereof; including but not limited to discarded, abandoned, unattended, or used refrigerators, iceboxes and similar containers equipped with airtight door or lid, snap

lock or other locking device which may not be released from the inside; or any other kind of scrap or waste or abandoned material or items.

- Nuisance.** An act or failure to perform a legal duty which causes or permits a condition to exist which injures or endangers the public health, safety or welfare of the inhabitants of the Town of Cohasset. Specific conditions that constitute nuisances are delineated in Appendix 2: Examples of Nuisances.
- Occupant.** Every person living or sleeping in a dwelling and any tenant who has possession, whether legally or illegally, of a space or operates a business out of a space in the Town of Cohasset.
- Owner.** Every person who, alone or severally with others:
1. has legal title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
 2. has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
 3. is a mortgagee in possession of any such property; or
 4. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
 5. is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.
- Person.** Every individual, partnership, corporation, firm, association, or group, including a city, town, county or other governmental unit, owning property or carrying on an activity regulated by this regulation.
- Responsible Party.** The owner or occupant of property that is the subject of enforcement under this regulation. The singular use of this term includes the plural tense, when the context so indicates.
- Refuse.** All putrescible and nonputrescible solid wastes, with the exception of body waste, and shall include, but not be limited to, garbage, rubbish, yard waste, ashes, street sweepings, dead animals, and residential waste.
- Rubbish.** All combustible and non-combustible waste material, except garbage, offal, and refuse, including but not limited to such material as paper and paper products, cartons, containers, boxes, rags, leather, packing materials, wood, bottles, glassware, cans, plastics, and the like.
- Standing Water.** Water that is allowed to accumulate and remain undisturbed for a period of four (4) or more days, not including naturally occurring wetlands as defined by applicable state statute and regulations and local ordinances, and not including swimming pools utilizing an active filtration system and maintained in accordance with 105 CMR 435.000: State Sanitary Code, Chapter V.
- Structure.** A combination of materials, whether wholly or partially level with, above or below the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, framework, retaining wall, stand, platform, bin, fence with a height of six (6) feet or greater (above grade), parking area sign, flagpole, or mast of an antenna or the like.
- Trash.** All waste materials defined as rubbish and refuse, excluding garbage or offal.
- Vermin.** Various small animals or insects that are destructive, objectionable, annoying or injurious to health and are often difficult to control, including but not limited to cockroaches, bed bugs, lice, fleas, mosquitoes, flies, mice and rats.
- Yard Waste.** Grass clippings, weeds, hedge clippings, garden materials and branches that are one (1) inch or less in diameter.
- Zoonotic Disease.** A disease that is transmittable from an animal to a human.



TOWN OF COHASSET
Board of Health
41 Highland Avenue
Cohasset, Massachusetts 02025



Public Health
Prevent. Promote. Protect.

Board of Health

Margaret S. Chapman, APRN-BC, Chairperson
Robin M. Lawrence, DDS, MPH, Clerk
Elizabeth Kirkpatrick

Health Administrator / Inspector
Felix I. Zemel, MCP, MPH, REHS/RS

Public Health Nurse
Mary Goodwin, RN

Contact Information

Tel: (781) 383-4116
Fax: (781) 383-4111
Email: boh@cohassetma.org

APPENDIX 2: EXAMPLES OF NUISANCES AND EXCLUSIONS

2.01: EXAMPLES OF NUISANCES

1. failure to maintain a property in a safe and sanitary condition;
2. burned structures that are not otherwise lawfully habitable or usable;
3. any dilapidated real and/or personal property;
4. the presence of any sickening and/or noxious odors;
5. dangerous or unsafe structures or personal property;
6. overgrown vegetation which results in raccoon, rodent and/or vermin harborage, conceals pools of stagnant water, or which is otherwise detrimental to the health of the occupants of neighboring properties, as determined by the Board of Health;
7. dead, decayed, diseased or hazardous trees, debris or trash;
8. personal property, junk, machinery or mechanical equipment, or parts thereof that are located on asphalt, soil, grass or other porous surfaces, which may result in the contamination of soil or serve as harborage locations for raccoons, rodents and/or vermin;
9. placement of garbage, refuse, rubbish or offal in a naturally-occurring water body;
10. leaving or causing to be left or placed within the limits of the Town: hazardous wastes, rubbish, garbage, swill, household trash, the body of dead animal or fowl or any substance that is likely to become offensive or hazardous to human and/or environmental health;
11. overflowing trash and/or recycling receptacles;
12. undrained pools of stagnant water, not permitted and maintained in compliance with 105 CMR 435.000; and
13. all tires, new or used, on residential, public or commercial property, except those installed on a vehicle, that are not stored and completely covered so as to prevent the collection of water and formation of stagnant water

2.02: EXCLUSIONS

1. Any activities permitted by any other department and/or board recognized by the Town of Cohasset's Town Bylaws, as periodically amended.