

**Massachusetts Executive Office of
Health and Human Services**



Department of Public Health

Manual of Laws and Regulations Relating to Boards of Health

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PART I. INTRODUCTION

Local boards of health in Massachusetts are required by state and local laws and regulations to perform many critical duties related to the protection of public health. These duties cover a wide range of public health control and prevention activities, including: disease surveillance; the promotion of sanitary conditions in housing, recreational facilities, and food establishments; elimination of nuisances; the protection of the environment; and numerous other responsibilities. These requirements reflect the principle that many critical health problems are best handled by local officials familiar with local conditions.

This manual is published by the Massachusetts Department of Public Health pursuant to Chapter 111, section 24, of the Massachusetts General Laws. It is available for download from the Department's website at www.mass.gov/dph. Its purpose is to provide a broad overview of the various responsibilities of local boards of health in Massachusetts and to serve as a tool for local officials to quickly reference state laws and regulations relevant to their work. As such, it contains only a brief summary of the relevant laws and regulations. More detailed guidance for local boards of health is contained in the Guidebook for Massachusetts Boards of Health published by the Massachusetts Association of Health Boards.

When accessing this manual on a computer with internet access, readers may review any cited law, regulation, or document by simply clicking on the highlighted link shown the first time a statute, regulation, or document is cited. Throughout this document, local boards of health are referred to as either "boards of health" or "boards." Unless otherwise specified, these terms include local departments of health, public health commissions, and regional health districts. "Department" means the Massachusetts Department of Public Health, unless otherwise indicated.

This manual may be updated periodically to reflect changes in laws and regulations relating to local boards of health. Every effort has been made to ensure that the information contained in this manual is accurate and up-to-date as of the date it is published. However, the information is provided as guidance only and should not be relied upon as legal advice. Links to statutes and regulations are provided for the convenience of the users of this manual. These links are not the official versions of the statutes or regulations and should not be relied upon as legally binding requirements. Official versions of the laws and regulations cited in this manual are available from the Secretary of the Commonwealth's State Publications and Regulations Division, through the State Bookstore. For a copy of an official version, contact the State Bookstore in Boston at (617) 727-2834.

PART II. General Organization & Authority

A. Creation and General Authorizing Statutes

The general structure, powers, and duties of local boards of health are found at M.G.L. c. 111, s.26-33. Boards have authority to adopt and enforce reasonable health regulations under M.G.L. c.111, s.31. Case law upholds boards' authority to adopt regulations that are more restrictive than state standards so long as the local regulations do not conflict with state law and are not specifically preempted.

B. Regionalization

Boards of health and municipal health departments may form regional health districts for the purpose of enhancing health services, providing efficient use of resources, and receiving certain grants. M.G.L. c. 111 s.27A-27C.

Regionalization agreements are technical legal documents that need to be carefully and specifically drafted with input from counsel for each of the participating cities/towns. For example, agreements need to be specific and detailed about whether, and under what circumstances, individual cities/towns retain direction and control over their public employees even when the employees are performing duties in another town. Many other legal issues need to be addressed by city/town attorneys in regionalization agreements. Participation in a regional district requires approval from the city or town governing body as well as the participating boards of health.

PART III. Disease Prevention and Control

A. Diseases Dangerous to the Public Health

Health protection and disease control are important aspects of the duties and responsibilities of local boards of health. Boards consult with the State Department of Public Health regarding the prevention of dangerous diseases, M.G.L. c. 111, s. 7, and must report cases of dangerous diseases to the Department within twenty-four hours, M.G.L. c. 111, s. 112-113. A list of the diseases required to be reported can be found in the Massachusetts regulations *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*, 105 CMR 300.000. Boards of health must maintain records of reports of diseases dangerous to the public health. The board must forward copies to the local school committee as well as other local boards in whose jurisdiction the individual with the disease dangerous to public health resides, may have contracted the disease, or may have exposed others. M.G.L. c.111, s.111.

Reports of deaths from dangerous diseases must be reported weekly to the Department of Public Health. M.G.L. c. 111, s. 29.

Boards of health must collect notices of school children sent home because of dangerous disease. M.G.L. c. 71, s. 55A. See also the School Health Manual.

Boards receive reports of any inflammation, swelling, redness or unnatural discharge from the eyes of an infant less than two weeks old, and must take immediate action to prevent blindness. M.G.L. c. 111, s. 110.

Boards receive reports of people afflicted with cerebral palsy. Boards must submit an annual report of these cases to the Department of Public Health. M.G.L. c.111, s.111A.

Boards collect reports of food poisoning, which must be reported to the Department of Public Health. 105 CMR 300.100, 105 CMR 300.131.

Boards receive reports of inspections by the Division of Occupational Safety regarding violations of health laws or nuisances in industrial establishments. Local boards must investigate these reports and enforce appropriate laws. M.G.L. c.149, s.136.

The Department of Public Health has co-ordinate powers with local boards of health to investigate contagious or infectious diseases. M.G.L. c. 111, s. 7.

B. Services to the Community:

Boards of health must provide the following services to the community:

- Certify in writing within seven (7) days to a gas or electric company when there is a serious illness in a residence such that no gas or electric company shall shut off or fail to restore gas or electric service in any residence during such time as there is a serious illness. M.G.L. c.164, s.124A; 220 CMR 25.03(2).
- Provide anti-rabic vaccine and treatment. M.G.L. c.140, s.145A, 105 CMR 335.000.
- Supervise or carry out the disinfection of dwellings which have housed a person who has suffered from or died of a disease dangerous to the public health. M.G.L. c. 111, s. 109.

- Certify to the Department of Public Health persons with active tuberculosis who are unwilling or unable to accept proper medical treatment and pose a threat to public health. M.G.L. c. 111, s. 94A.
- Provide outpatient nurse case management services to individuals with tuberculosis. M.G.L. c. 111, s. 94H; M.G.L. c. 111, s. 95; 105 CMR 365.000.

C. Health Clinics and Hospitals

Boards may direct the operation of, and adopt rules for, city and town dental and medical health clinics. M.G.L. c. 111, s. 50. Boards may establish one or more hospitals for the reception of individuals with diseases dangerous to public health. M.G.L. c. 111, s. 92.

D. Isolation and Quarantine

Boards may direct the isolation and quarantine of individuals, animals, and property relative to communicable disease and maintain isolation hospitals to prevent the spread of infection. M.G.L. c. 111, s. 92-105, 116.

Boards enforce the isolation and quarantine regulations found at 105 CMR 300.200.

E. Vaccinations

Boards may require vaccination of inhabitants of the city or town. M.G.L. c. 111, s.181.

F. Disease Control

Boards may issue permits for removal of infected dead bodies. M.G.L. c. 111, s. 107.
The may direct the removal of sick prisoners to hospitals. M.G.L. c. 111, s. 108.

PART IV. State Sanitary Code Enforcement

The State Sanitary Code is a series of public health regulations promulgated by the Department of Public Health that specify minimum sanitation standards. The regulations are authorized pursuant to M.G.L. c. 111, s. 127A. They are organized as separate regulations but are listed as chapters of the State Sanitary Code. Boards of health have primary enforcement authority over most State Sanitary Code regulations. In extraordinary circumstances, the State Department of Public Health has the power to enforce the State Sanitary Code in like manner as boards of health if a board fails, after notice and a reasonable period of time, to enforce the code. With limited exceptions, the State Sanitary Code applies to all persons and businesses within the Commonwealth of Massachusetts. The Code does not apply to federally owned facilities and does not apply when specifically exempt by statute.

The following is a brief description of each chapter of the State Sanitary Code that boards of health are responsible for enforcing.

A. Chapter I: General Administrative Procedures

Chapter I of the State Sanitary Code, 105 CMR 400.000 entitled "General Administrative Procedures" sets forth procedures that are applicable to the administration and enforcement of all chapters of the State Sanitary Code. Unless otherwise specified in a specific chapter of the State Sanitary Code, the general administrative procedures set forth the requirements for inspections, enforcement, hearings, judicial review, penalties, and variance procedures for each chapter of the State Sanitary Code.

Boards have authority under these general provisions to issue orders reciting the existence of an emergency and requiring that such action be taken as the board deems necessary to meet the emergency. State Sanitary Code, Chapter I, 105 CMR 400.200(B), pursuant to M.G.L. c.111, s.127A; and State Environmental Code, Title I, 310 CMR 11.05(1).

B. Chapter II: Housing

Chapter II of the State Sanitary Code, 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II), sets forth the minimum standards for housing in the Commonwealth. The purposes of this chapter are to protect public health, safety, and the well-being of occupants and the general public and to provide enforcement procedures for local boards of health. Except as specified in this chapter, the housing code applies to all types of housing, including single and multi-family dwellings, rooming houses, dormitories, and temporary housing.

Local boards of health are required to enforce all aspects of the housing code, including conducting inspections upon their own initiative or upon request, issuing correction orders, and enforcing compliance. If the board determines that a dwelling has become a nuisance, is unfit for human habitation, or may be a cause of sickness or accident to the occupants or the public, the board may issue a written condemnation order requiring the occupants to vacate, requiring the premises be put in a clean condition, or torn down, or requiring compliance with the regulations set forth in the code or adopted by the board of health. M.G.L. c. 111, s. 127B.

A board must certify violations and enforce the provisions of the Sanitary Code. It may also grant variances in accordance with 105 CMR 410.840.

C. Chapter III: Farm Labor Camps

Housing and sanitation standards for farm labor camps for the housing of temporary/migratory farm workers are governed by Chapter III of the State Sanitary Code. 105 CMR 420.000. Farm labor camp regulations are enforced by the State Department of Public Health, but local boards may be notified concerning farm labor camp issues in their community.

D. Chapter IV: Recreational Camps for Children

Chapter IV of the State Sanitary Code, 105 CMR 430.000: Minimum Standards for Recreational Camps for Children (State Sanitary Code, Chapter IV), sets forth the minimum housing, health, safety and sanitary protection standards for children in the care of recreational camps operating in the Commonwealth. Boards of health must license recreational camps for children. M.G.L. c.140 s.32B. Certain types of recreational programs are exempt (see definition of recreational camp for children in 105 CMR 430.020 for list of exemptions). A board of health must inspect each camp facility before granting a license for the upcoming year. Boards have the authority to grant variances. Variances must be submitted to the Department of Public Health, but are not subject to Department approval. Local boards have the authority to adopt, alter or amend rules and regulations to enforce M.G.L. c.140 s.32B, provided that they don't conflict with the State Sanitary Code.

E. Chapter V: Public/Semi-Public Swimming Pools

Chapter V of the State Sanitary Code, 105 CMR 435.000: Minimum Standards for Swimming Pools (State Sanitary Code, Chapter V), sets forth the minimum standards for health and safety of swimming, wading, and special purpose pools operated in the Commonwealth. It does not apply to private residential pools. Boards of health are required to inspect and issue annual permits to operate a swimming, wading or special purpose pool.

Boards may grant variances to 105 CMR 435.000 subject to Department approval. Except in cases of emergencies, no variance approved by a board may go into effect until the Department has approved it, or after 30 days if the Department fails to comment on the variance.

The Virginia Graeme Baker Pool & Spa Safety Act is a federal law designed to prevent serious injuries and fatalities associated with suction entrapment in pools and spas. While it is enforced by the federal Consumer Product Safety Commission, the Department of Public Health has adopted these requirements as part of 105 CMR 435.000. The specific requirements are available from the Department's website: http://www.mass.gov/Eeohhs2/docs/dph/environmental/sanitation/pool_federal_requirements.pdf

F. Chapter VI: Family Type Camp Grounds

Chapter VI of the State Sanitary Code, 105 CMR 440.000: Minimum Standards for Developed Family Type Camp Grounds (State Sanitary Code, Chapter VI), provides minimum health and safety standards for camp ground facilities used for recreational camping or group activities. Boards of health license family type campgrounds pursuant to M.G.L. c.140 s.32B, and the Family Type Camp Ground regulations. A board may grant variances to 105 CMR 440.000 subject to Department approval. Except in cases of emergencies, no variance approved by a board may go into effect until the Department of Public Health has approved it, or after 30 days if the Department fails to comment on the variance.

G. Chapter VII: Bathing Beaches

Chapter VII of the State Sanitary Code, 105 CMR 445.000: Minimum Standards for Bathing Beaches (State Sanitary Code, Chapter VII), sets forth minimum requirements for the operation of bathing beaches in the Commonwealth. These regulations are authorized by the State Sanitary Code as well as a specific bathing beach statute, M.G.L. c. 111, s. 5S. These regulations apply to state and local agencies as well as beaches operated by semi-public operators (e.g., motel, country club, or neighborhood association beaches), but not to privately owned beaches. Private beaches are those that are not considered public or semi-public beaches, as defined in 105 CMR 445.010. The purposes of these regulations are to protect the health, safety and well-being of the users of bathing beaches, to establish acceptable standards for bathing water quality, and to establish procedures for informing the public of any bathing water closures.

Boards of health must license beaches pursuant to M.G.L. c. 111, s. 5S, and the bathing beach regulations. A board of health may grant variances to 105 CMR 445.000 for any beach not operated by the Commonwealth subject to Department approval. All variances granted or denied by a board of health must be made in writing and shall be posted 30 days following its issuance. Approval is presumed if the Department does not respond within 45 days.

H. Chapter VIII: Medical or Biological Waste

Chapter VIII of the State Sanitary Code, 105 CMR 480.000: Minimum Requirements for the Management of Medical or Biological Waste (State Sanitary Code, Chapter VIII), sets forth the minimum requirements for the storage, treatment, disposal and transportation of medical or biological waste. The purpose of the regulations is to safeguard the public and workers from potential health risks associated with the improper storage, management, treatment, and disposal of medical and biological waste.

The regulations specify the requirements to store medical or biological waste prior to treatment or shipment off-site for treatment. As authorized by M.G.L. c. 94C, s. 27A, agencies as well as businesses may establish sharps collection centers. Standards for the collection and management of sharps by sharps collection centers are set forth in 105 CMR 480.135. In addition, the regulations specify approved disinfection methods, disposal options, packaging, labeling and shipping requirements, and tracking and documentation procedures. Except for medical waste generated in a licensed health care facility, a board has the authority to inspect facilities that generate medical or biological waste as is necessary for the protection of the public health. In a community that collects and manages home sharps, the board must inspect all sharps collection centers and kiosks prior to operation. The board must notify the department within thirty days of inspection of the location and address of the sharps collection centers and kiosks. M.G.L. c. 94c, s. 27A. Boards may also enforce these regulations through their authority to abate nuisances.

I. Chapter X: Retail Food Establishments

Chapter X of the State Sanitary Code, 105 CMR 590.000 entitled "Minimum Sanitation Standards for Food Establishments" (State Sanitary Code, Chapter X), sets forth the minimum requirements to operate a retail food establishment in the Commonwealth.

Boards issue permits for the operation of retail food establishments, including markets, temporary food events, caterers, food vendors, home kitchens that are part of a bed and breakfast operation, food pantries, and other charitable and/or church operated food events.

Boards are responsible for inspecting retail food establishments, issuing orders, and under certain circumstances suspending, revoking or not renewing permits or denying an application for an initial permit. Specific grounds for these enforcement actions are found at 105 CMR 590.012. Boards may use ticketing procedures in the enforcement of sanitation standards if the town has adopted M.G.L. c. 40, s. 21D as a by-law.

Food inspectors should be well trained. Training and continuing education is available through the Massachusetts Health Officers Association.

At the time a permit is initially issued, the local board of health should provide the permit holder with instructions for how to obtain a copy of 105 CMR 590.000 as well as a copy of the federal 1999 Food Code so that the permit holder is on notice of compliance requirements and the conditions that must be met for retention of the permit.

J. Chapter XI: Indoor Skating Rinks

Chapter XI of the State Sanitary Code, 105 CMR 675.000: Requirements to Maintain Air Quality in Indoor Skating Rinks (State Sanitary Code, Chapter XI), describes requirements to ensure the maintenance of safe and appropriate indoor air quality in ice skating rinks that utilize ice resurfacing equipment powered by combustible fuels which produce carbon monoxide or nitrogen dioxide. The purpose of the regulations is to prevent adverse health effects, particularly to children, from exposure to combustion products in enclosed indoor ice rinks. Local boards are responsible for enforcing 105 CMR 675.000, except with regard to state operated facilities.

A board may revoke or suspend a certificate with notice for failure to comply with 105 CMR 675.000. Boards may also grant variances.

K. Lead Poisoning Prevention

While not a chapter of the State Sanitary Code, the lead poisoning prevention statutes and regulations relate to housing conditions and authorize the enforcement of violations pursuant to the State Sanitary Code. Upon receiving a report of a lead poisoned child or upon the request of the occupant, the board must inspect residential premises constructed before 1978 in which a child under six resides for compliance with the State Lead Poisoning Prevention law and regulations. M.G.L. c.111, s.189 - s.199A and 105 CMR 460.000. Also, the board must inspect for lead any time it conducts a Sanitary Code inspection in such premises. Judicial proceedings must be initiated to enforce compliance in accordance with the timelines set forth in 105 CMR 560.000.

PART V. Food Protection Laws and Regulations

In addition to the requirements in the retail food establishment regulations [105 CMR 590.000], Massachusetts has numerous other statutes and regulations that place requirements on local boards of health related to food safety, food security, and consumer protection. Other general food regulations are found at 105 CMR 510.000 entitled "Standards of Identity and Definitions of Purity and Quality of Food;" 105 CMR 515.000 entitled "Action Levels for Poisonous and Deleterious Substances in Food;" and 105 CMR 520.000 entitled "Labeling."

Other statutes related to food are as follows:

A. Eggs

Local Boards of Health issue permits for establishments for breaking and canning eggs. M.G.L. c. 94, s.89-92A.

B. Dairy/Milk

The law covering pasteurization plants, which are licensed by boards, is found at M.G.L. c. 94, s. 48A and the regulations entitled "Milk, Milk Products, and Milk Pasteurization Plants" are found at 105 CMR 541.000. Other laws related to milk and dairy products, such as butter, cream, and cheese, are found at M.G.L. c. 94, s. 12-63.

Boards may adopt bacterial standards for milk which are stricter than the standards adopted by the Department of Public Health. M.G.L. c. 94, s. 13E.

City health departments shall have milk inspectors. Town boards may appoint a milk inspector. Inspectors must inspect and license milk producers and dealers. M.G.L. c. 94, s.33 and s.40.

C. Bottled Water and Non-Alcoholic Beverages

Boards of health issue permits to facilities within the Commonwealth in the business of bottling or manufacturing water and/or non-alcoholic beverages. M.G.L. c. 94, s. 10A-10G. The Department of Public Health issues permits to facilities located outside the Commonwealth that sell bottled water and/or non-alcoholic beverages within the Commonwealth. M.G.L. c.94, s.10A. The manufacturing and bottling of water and non-alcoholic beverages is further regulated by 105 CMR 570.000 entitled "The Manufacture, Collection, and Bottling of Water and Carbonated Non-alcoholic Beverages."

D. Bakeries and Bakery Products

Boards enforce sanitary standards for bakeries and in the preparation, handling, storing, labeling, and transporting of bakery products. Boards may take enforcement action against bakeries found unfit for the production, handling, or storing of food, or that are dangerous to the health of its employees. M.G.L. c. 94, s. 2-10.

E. Frozen Desserts and Frozen Dessert Mix

1. Boards are responsible for licensing, inspecting, and enforcing the sanitary and
2. labeling standards applicable to the manufacturing of frozen desserts and
3. frozen dessert mixes pursuant to M.G.L. c. 94, s. 65G-65U and the regulations found at 105 CMR 561.000.

F. Cold Storage and Refrigerated Warehouses

While the Department of Public Health issues licenses for cold storage and refrigerating warehouses, local boards of health are responsible for inspecting cold storage warehouses for compliance with M.G.L. c. 94, s. 66-72.

G. Seafood and Shellfish

Permits for retail and wholesale seafood and shellfish operations are issued jointly by the Division of Marine Fisheries and the Department of Public Health. The regulations governing seafood and shellfish operations are found at 105 CMR 533.000. Shellfish transported into Massachusetts for consumption must be through dealers who are certified and on the Interstate Shellfish Shippers List (ISSL). M.G.L. c. 130, s. 81. If the shellfish come from another country, the shellfish must be certified by that country under the uniform sanitation requirements program for the certification of interstate shellfish shippers. All shellfish must be properly labeled at all times, with the producer, shipper, number of certificates, and the place and date where taken. Other statutes related to seafood are found at M.G.L. c. 94, s. 74-88D. M.G.L. c.94, s. 88D authorizes the Department or its agents to immediately seize fish offered for sale that is found to be unfit for human consumption. Inspections and enforcement are primarily state responsibilities, but the watchfulness and input from local officials enhances the state's ability to carry out its enforcement mandates.

H. Sampling of Food

Boards of health are authorized to collect food samples pursuant to M.G.L. c. 94, s. 188-189.

I. Seizure of Food

Boards of health are authorized to inspect and to seize tainted, diseased, decayed, unwholesome, or unfit meat, fish, vegetables, produce, fruit or provisions of any kind that are exhibited and exposed for sale as food. M.G.L. c. 94, s. 146.

J. Slaughter Houses

Slaughter houses are generally under the jurisdiction of the Department of Public Health pursuant to M.G.L. c. 94, s. 118-139G, however, local boards of health may have concurrent jurisdiction where they have determined that a slaughter house is a nuisance.

K. Farm Products and Other Emerging Food Issues

Apples, cranberries and many other farm products generally fall under the jurisdiction of the Department of Agricultural Resources. There are some farm product areas that overlap with public health, and there are some emerging trends that are relevant to local boards of health, including: sale of raw milk; mobile poultry processing; aquaculture; and the sale of an expanding variety of foods at farmers' markets, such as shellfish. Local boards of health play a key role in monitoring these activities and providing data to state officials working on pilot projects and regulatory drafting in these emerging areas.

In November 2010, the 105 CMR 590.000 sections pertaining to listing calorie information on menus in certain food establishments go in to effect. In addition, regulations pertaining to the responsibility of food establishments concerning allergens will be promulgated in 2010.

PART VI. Motels, Mobile Home Parks, and Public Lodging Places

The local board of health is responsible for licensing motels and manufactured housing communities. M.G.L. c. 140, s. 32B. The board shall at once notify the Department of Environmental Protection of the granting or renewal of such a license, and said department shall have jurisdiction to inspect the premises to determine that the sources of water supply and the works for the disposal of the sewage of such premises are sanitary. The board of health may adopt rules and regulations to enforce this statute.

A board must also grant licenses to public boarding houses in accordance with M.G.L. c. 140, s. 36. No license shall be granted until the board of health has certified that the building is provided with a sufficient number of water closets and urinals and with good and sufficient means of ventilation. A board may require the licensee to thoroughly cleanse and disinfect all parts of a public lodging place and the furniture therein to the satisfaction of the board. Motels and lodging houses are also subject to the requirements in chapter II of the State Sanitary Code (see page 7 of this Manual).

PART VII. Environmental Protection:

A. Hazardous and Solid Waste

Boards of health assign sites for storage, treatment, or disposal of hazardous waste (not including wastewater treatment facilities permitted under M. G. L. c. 21, s. 43) in compliance with M.G.L. c. 111, s. 150B. Boards are required to notify the Department of Environmental Protection (DEP) of pending applications. DEP recommends notification to the mayor or selectmen concerning any pending applications for licenses for the collection, storage, treatment, or disposal of hazardous waste, as well as information supplied annually by DEP identifying types and quantities of hazardous waste generated, stored, treated or disposed of within the city or town. M.G.L. c. 21C, s. 4. A board may rescind, suspend, or modify the site assignment after due notice and hearing after determining that the operation and maintenance of a facility has resulted in a significant danger to the public health or is not in compliance with the conditions established in the assignment. A decision in writing must be made including a statement of reasons and facts relied upon by the board.

Boards of health also assign sites for sanitary landfills, refuse incinerators, waste storage or treatment plants, and refuse transfer stations, after a public hearing in accordance with M.G.L. c. 111, s. 150A and 150A1/2. DEP's site assignment for solid waste facilities regulations can be found at 310 CMR 16.00. Boards receive a site suitability report from DEP providing DEP's review of the application. Special wastes include asbestos waste, infectious waste, and sludges. 310 CMR 19.061 (3). Infectious wastes that have been rendered non infectious in accordance with 105 CMR 480.000 are not subject to 310 CMR 19.061. Boards also receive notification from operators of composting facilities as well as wood chipping and shredding operations, as required by 310 CMR 16.05.

B. Septage and Garbage

A board of health enforces compliance with the standard requirements for on site sewage treatment and disposal systems. 310 CMR 15.00. Authority to make rules and regulations for the removal, transportation, and disposal of offal, garbage, and other offensive substances is given to boards by M.G.L. c. 111, s. 31B. Along with these regulations, the board issues permits for the removal and transportation of these substances, including permitting waste haulers. M.G.L. c. 111, s. 31A.

A board may investigate illegal dumping and issue orders to clean up after such dumping. M.G.L. c. 111, s. 122.

C. Air Pollution

Boards may adopt and enforce regulations to control air pollution. M.G.L. c. 111, s. 31C. DEP's air pollution control regulations provide specific authority to local boards to enforce certain provisions. 310 CMR 7.00. Some of the specific areas include: open burning (310 CMR 7.07); incinerators (310 CMR 7.08); dust, odor, and construction and demolition (310 CMR 7.09); noise (310 CMR 7.10); transportation and idling (310 CMR 7.11); asbestos (310 CMR 7.15); and outdoor wood boilers (310 CMR 7.26(50)).

PART VIII. Miscellaneous

A. Pesticides

Even though the Massachusetts General Laws give no authority to local boards of health to regulate pesticides, the Massachusetts Supreme Court has decided that they may make reasonable regulations that are not inconsistent with the Massachusetts Pesticide Control Act, M.G.L. c. 132B or state regulations, 333 CMR 2.00. M.G.L. c. 132B, 333 CMR 2.00. Wendell v. Attorney General, 394 Mass 518 (1985). Additionally, boards of health receive notice of application of herbicide to a right of way 21 days prior to the application. 333 CMR 11.07.

Boards also work to control mosquito-borne diseases, such as West Nile Virus and Eastern Equine Encephalitis, in collaboration with local mosquito control districts, when available, and in conjunction with the Department of Public Health and the Department of Agricultural Resources.

B. Nuisances

Boards of health are required to examine all nuisances, sources of filth and causes of sickness within the city or town. Whenever a board is aware of a nuisance or cause of sickness that may be injurious to the public health, the board is required to remove or destroy the nuisance or cause of sickness, or prevent the nuisance or cause of sickness. M.G.L. c. 111, s. 122. The board is required to make regulations related to the removal and destruction of such nuisances. M.G.L. c. 111, s. 122. Boards may condemn all nuisances and clean or tear down a nuisance. M.G.L. c. 111, s. 125. Boards are authorized to enter any land, building or premises, or go on board a vessel within its town, to examine into and destroy or prevent a nuisance, source of filth or cause of sickness. M.G.L. c. 111, s. 131.

C. Noisome and Noxious Trades

The board shall assign locations for noisome trades after a public hearing. M.G.L. c. 111, s. 143. A noxious trade is a slaughter house, melting or rendering establishment, or any other offensive trade or establishment. M.G.L. c. 111, s. 151. Anyone who wishes to run such an establishment must get the written consent of the board of health in the town where the building or premises are situated.

D. Animal Inspectors

Boards of health in towns may nominate animal inspectors. M.G.L. c. 129, s. 15.

E. Use of Traps

Boards of health may authorize the use of traps to capture furbearing mammals to minimize threats to human health and safety associated with activities of these mammals. They may issue emergency permits for such traps, not to exceed a period of ten days. A denial of an emergency permit may be appealed to the Department of Public Health. M.G.L. c. 131, s. 80A.

F. Vapor, Pool, Shower or Bath Houses

Boards of health may authorize businesses operating vapor, pool, shower or bath houses. M.G.L. c. 140, s. 51. The field of massage therapy is regulated by the state Board of Registration of Massage Therapy.

G. Death Certificates and Burial Permits

Local boards are responsible for issuing, receiving, and recording death certificates and burial permits. M.G.L. c. 114, s. 45; M.G.L. c. 46, s. 11.

- H. Funeral Directors**
Boards of health license funeral directors. M.G.L. c. 114, s. 49. Boards report to the Board of Registration of Funeral Directors and Embalmers.
- I. Location of Cemeteries**
Boards approve the location of cemeteries. M.G.L. c. 114, s. 34.
- J. Retain Charge of Cases**
Boards retain charge of any case arising under M.G.L. c. 111 in which the board has acted. M.G.L. c. 111, s. 32.
- K. Enforcement of Local Health Regulations**
Boards enforce all local health regulations promulgated pursuant to M.G.L. c. 111, s. 31.
- L. Tanning Facilities**
Boards issue licenses to tanning facilities. 105 CMR 123.000. Boards must inspect tanning facilities within 30 days of licensure, every six months thereafter, and upon receipt of a complaint. Boards enforce regulatory requirements, hold hearings, and may issue variances.
- M. Smoking**
Enforcement of the Smoke-Free Workplace Act is delegated mainly to local boards of health. M.G.L. c. 270, s. 22(m)(1). Enforcement may be through non-criminal disposition. M.G.L. c. 270, s. 22(M)(2). Boards may receive complaints from the Department that initiate investigations regarding the failure to comply with the Smoke Free Workplace Act. M.G.L. c. 270, s. 22(m)(3). Enforcement may also occur through periodic inspections and locally received complaints. An annual report must be sent to the Commissioner of Public Health.
- N. Subdivision of Land**
A board must approve or disapprove definitive plans for the subdivision of land. M.G.L. c. 41, ss. 81S-81V.
- O. Fluoridation**
A board of health may order the fluoridation of public water supplies. However, this order may be overturned by a municipal referendum vote. M.G.L. c. 111, s. 8C.
- P. Drinking Water**
Upon determination that drinking water in a dwelling or food service establishment is unsafe, the boards may order discontinuance of use or order provision of a new source. M.G.L. c. 111, s. 122A.
- Q. School Physicians and Nurses**
In some cases, boards may be responsible for appointing school physicians and nurses. M.G.L. c. 71, s. 53.
- R. Public Sanitary Stations**
In cities, and in towns with a population greater than ten thousand, towns must establish public sanitary stations with separate water closets for the use of each sex if, in the opinion of the board of health, public necessity requires it. M.G.L. c. 111, s. 33.