

Emily Beebe

From: Gregg J. Corbo <GCorbo@k-plaw.com>
Sent: Tuesday, May 31, 2022 9:56 AM
To: Emily Beebe
Cc: Darrin Tangeman; John Giorgio
Subject: RE: Water Sample Requirement - Vacation Rentals

Dear Emily:

I am writing in response to your request for an opinion concerning the validity of the Board of Health's Regulation requiring that private drinking water wells be tested in certain circumstances. Specifically, Section 6 of Article VIII of the Board's regulations require that private wells be tested in the following circumstances: (1) upon transfer of real estate; (2) upon applying for a building permit, other than an express permit; (3) upon applying for a disposal works construction permit; (4) upon applying for or renewing a rental registration certificate; and (5) upon submitting a septic inspection report.

The Board has received an objection to the regulation insofar as it requires certain property owners to test their well water and not others. The objection focuses primarily on how the regulation affects owners with short-term rental certificates, claiming that it creates two classifications of property owners – those who engage in short term rentals and those who do not.

A regulation that distinguishes between different groups is permissible, unless it involves a suspect classification such as race or gender, as long as the regulation is rationally related to a legitimate public interest and is not arbitrary or unreasonable. LCM Enterprises, Inc. v. Town of Dartmouth, 14 F.3d 675, 679 (1st Cir. 1994). In this regard, courts have recognized that distinctions between groups made in the interests of practicality and administrative convenience are permissible and rational public purposes. See, e.g. Mass. Federation of Teachers, AFT, AFL-CIO v. Board of Education, 436 Mass. 763, 778 (2002) (upholding regulation creating different certification requirements for different classes of teachers). Courts have also recognized that a public health regulation is not invalid because it addresses only part of a problem; rather, the Board is entitled to act incrementally to address problems in the most efficient manner, even if the regulation results in some inequality. RYO Cigar Association, Inc. v. Boston Public Health Commission, 79 Mass.App.Ct. 822, 829 (2011).

In this matter, the complainant has acknowledged that the Board of Health has a legitimate public interest in surveying water quality and ensuring the health of all citizens. The Board, however, has limited time and resources to analyze samples taken, and it would simply be impractical to regularly test every private well in the Town. While a regulation requiring that all private wells be tested at regular intervals may be desirable, such a regulation would be completely ineffectual if the Board did not have the resources to implement it. The Board has, therefore, limited the testing requirement to certain circumstances in which a matter is subject to the Board's review for other reasons. In my opinion, this a rational basis for the difference in treatment and the Board's regulation does not create an impermissible classification.

Please do not hesitate to contact me if you have any further questions in this regard.

Very truly yours,

Gregg J. Corbo, Esq.
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From: Truro Properties <truropropertiesrentals@gmail.com>

Sent: Tuesday, May 24, 2022 12:13 PM

To: Emily Beebe <EBeeBe@truro-ma.gov>

Subject: Water Sample Requirement - Vacation Rentals

Hi Emily,

Thank you for talking to me today. It would be great if Town Management and Town Counsel could review this before homeowners need to go through the expense and inconvenience.

As discussed on the phone I do not think it would be a problem if Truro required all homeowners with well water to annually test their water. The Board of Health has a legitimate public interest in surveying water quality and ensuring the health of all citizens.

I only question the unequal application of the requirement to do water sampling on only one class of Owners.

There are three classes of homeowners:

- 1.) Owners with short-term vacation rentals;
- 2.) Owners with residential rentals (6months)
- 3.) Owners who do not rent.

Excluding Class 2 (Residential Rentals for 6 months or more) makes no sense since the public health rationale for doing the water sampling is more important for renters who drink the water for longer periods of time. They would get more sick than someone who only drinking the water for 7 days. Short-term rentals are being singled out. This is an unequal application of the law and an equal protection clause and due process violation.

Likewise the public health rationale for Class 3 (Owners who do not rent) is stronger since they would be drinking the water year round for years and have guests and visitors drinking the water. They do not collect rent but the public health rationale is the strongest for this Class being required to do annual water samples.

All the other triggers you mentioned (selling home, septic, building permits) for requiring water sampling applies to all three Class of Owners.

The registration requirement for Short-term rentals is the only trigger that does not apply to all 3 Classes of Owners.

Enforcement mechanisms could be applied to all three Classes of Owners.

Lastly, it is my understanding that email notification with the Registration Form were not sent out to Owners who rent this year. This has been done annually for as long as I can remember. Most Owners do not register until they receive the email. With the new requirements and time for water sampling this does not seem to be the time to stop.

Another consideration for the Town with these new requirements is non-compliance. If you do not pay your taxes and can not produce the required document the Owner is surely not going to pay the \$200 fee and Register for Rentals. Likewise requiring water sampling will not incentivize compliance with registration for obvious reasons.

On a basic level it makes no sense connecting water sampling or tax documents to the Registration if compliance and collecting the fee is of any importance to the Town. The Non-compliant Rental Registrants will not care what burdens you impose.

Thank you for your consideration.

Rick

Richard Bashian
Truro Properties
(508) 487-0370

**SECTION VI - LOCAL SEPTIC REGULATIONS TO SUPPLEMENT
TITLE 5, STATE ENVIRONMENTAL CODE**

Amended February 2, 2010; June 5, 2012; October 2, 2018, December 4, 2018, May 18, 2021

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Article 1 - General Provisions

- 1) **Authority.** In accordance with Massachusetts General Laws, Chapter 111, Sections 31 and 127A, the Truro Board of Health hereby adopts the following regulations to supplement the provisions of the State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage (hereinafter, "Title 5"), and shall take effect upon passage.
- 2) **Purpose.** The purpose of this article is to ~~provide a greater degree of~~ **provide** protection to the environmental and public health, prevent the spread of disease, and provide ~~greater~~ clarification of the definitions used by the Board in applying the provisions of Title 5 and the Truro Board of Health Regulations pertaining to on-site sewage treatment and disposal systems. Of specific concern is the need to protect the groundwater, which is the sole source of drinking water for Truro, Wellfleet and Provincetown.
- 3) **Enforcement.** Enforcement of the provisions contained in this Section VI will be carried out in accordance with the provisions of Title 5 of the State Environmental Code set forth at 310 C.M.R. 15.000, et seq. and all enforcement methods outlined in Section I of these Board of Health Regulations.
- 4) **Definitions.** With the exceptions listed below, the definitions provided in the State Building and Sanitary Codes, Title 5 and the Wetland Protection regulations shall apply. All time frames referenced herein shall be counted as calendar days. The following terms used by the Board in applying the provisions of Title 5 and the Truro Board of Health Regulations pertaining to on-site sewage treatment and disposal systems, shall be defined as follows:

Accessory Dwelling Unit (ADU): A complete, separate housekeeping unit containing both a kitchen and sanitary facilities, as defined by the Truro Zoning Bylaws section 40.2.

Alter or Alteration: To make different by changing, adding and/or subtracting components, piping or location.

Bedroom

- a) Any room that meets the definition of a bedroom under Title 5 or any room or enclosed addition with at least 70 square feet of floor area and a building code conforming egress window, that provides minimum isolation necessary for use as a sleeping area. Rooms such as a finished basement with building code conforming egress may be considered a bedroom if it meets the definition. The definition does not apply to a bathroom, kitchen, hall, unfinished cellar, unfinished basement, unfinished attic, garage, unfinished area above a garage, unheated porch and open deck.

- b) Notwithstanding the foregoing, any existing dwelling with six (6) rooms shall be construed to have at least three (3) bedrooms. Any dwelling with seven (7) rooms shall be construed to have at least four (4) bedrooms. Any dwelling with eight (8) or nine (9) rooms shall be construed to have at least five (5) bedrooms. Any dwelling with ten (10) or eleven (11) rooms shall be construed to have at least six (6) bedrooms. Each additional room beyond eleven (11) shall be construed as an additional bedroom and the number of bedrooms for the purpose of sizing a subsurface sewage disposal system (proposed and existing) shall be adjusted accordingly.
- c) All lofts that do not meet the criteria above, finished basements that do not have a building code conforming egress, and rooms and with cased openings at least 60 inches wide shall be considered rooms for the purposes of this definition.
- d) Dwellings built before the 1978 Building Code will have their bedrooms determined on a case-by-case basis.

Buildable Upland: The area of contiguous upland on a lot exclusive of Wetland as defined herein.

Change of Use: With respect to properties with existing systems, a change in use will result when the use of the structure or the land is changed from one use group to another use groups as described in the Table of Uses in the Town's Zoning Bylaws, as may be amended from time-to-time; an alteration of the structure or the land within the same use group that changes the intensity of the use, i.e. a business use changing from retail to office space or a residential use changing from single-family or multi-family; or any change or alteration to the land or structure that results in an increase in actual or design flow to the system.

Design Flow: The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system shall be designed in accordance with 310 CMR 15.203.

Failed System: Any Septic System which fails to protect the public health, safety and environment as determined by the Truro Board of Health, including but not limited to:

- a) any system which must be pumped in excess of two (2) times in a twelve-month period;
- b) any system which includes a component that the Board of Health determines is structurally unsound;
- c) any system which discharges effluent directly or indirectly to the surface of the ground through ponding, surface breakout or damp soils above the disposal area or to a wetland;
- d) any system which meets any of the failure criteria itemized on the Title 5 Official Inspection form as described in 310 CMR 15.303 or 310 CMR 15.304;
- e) any system with a leaching area with less than 4-feet (for 1978-code systems) or 5-feet (for 1995-code systems) of vertical separation to ground water; this distance shall be measured in the field (not "per plan") by the inspector.

f) any cesspool as defined in title 5 shall be deemed failed and shall be replaced with a title 5 compliant system no later than December 31, 2023.

g) any systems with leaching areas/pits that are essentially at capacity, as defined herein;

h) any systems that were not designed to accommodate the use;

i) any system deemed as failing to protect public health, safety and the environment.

To the extent such a waiver would be consistent with the provisions of Title 5, the Board of Health may waive a finding that any of the foregoing systems have failed if the Board determines, at its sole discretion, that the system will continue to protect the public health, safety and environment.

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Innovative/Alternative (I/A) Technology: Technology that is certified for enhanced nutrient removal that is described in 310 C.M.R. 15.202 and 15.217, and which is approved by the Massachusetts Department of Environmental Protection pursuant to 310 CMR 15.280 through 15.289.

Living space: excludes screened in porches and sunrooms

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Remedial Use: Use of I/A systems for the upgrade of a Failed or Nonconforming Septic System and there shall be no increase in the design flow served by the proposed I/A systems and no increase in habitable space or change use that, in the Board's judgement has the potential to increase sewage flow. The Board may consider a variance to this provision to allow the increase in flow from an "accessory dwelling unit" as defined herein and compliant with the Town of Truro conditions for the unit.

Nitrogen Credit is the use of I/A technology for development of a property beyond the standard of 110 gpd of wastewater flow per 10,000 sf of area. Nitrogen credit shall not be allowed for new construction, unless an ADU is being created.

Nitrogen Loading limitations: The 440 gpd per acre of land requirement for septic system design as described in title 5.

Non-conforming Septic System: Any system which, when installed did not comply with provisions of either the 1978 or 1995 iterations of Title 5, including cesspools and all similar systems in use prior to the adoption of the 1978 Code.

Title 5: Refers to Title 5 of the Massachusetts State Environmental Code, 310 CMR 15.000, et seq.

Title 5 Septic System: Includes any system installed in compliance with the 1978 or 1995 iterations of Title 5 but shall not mean cesspools or any similar system in use prior to the adoption of the 1978 Code.

TN: Means Total Nitrogen

Watersheds of Special Concern: Mapped watersheds designated by the Truro Board of Health and the Zone 1 and Zone II of public water supplies.

Wetlands: Any area that contains swamp, bog, dry bog, fresh or salt marsh, areas of exposed groundwater, embayment's, rivers, ponds, lakes, streams, inland banks, coastal banks, and coastal dunes, or any other area subject to the jurisdiction of the Conservation Commission as defined in G.L. c. 131, §40, 310 CMR 10.00, the Town of Truro Conservation Bylaw and/or regulations of the Conservation Commission, but not including buffer zones abutting such resources.

Article 2 - Variances

1. In addition to the variance criteria set forth in Section I of the Board of Health Regulations, an applicant may apply, and the Board of Health may grant a variance from this Section VI provided all of the following minimum criteria for said variance are also met:
 - a) A satisfactory inspection by a licensed system inspector of all system components if the variance sought pertains to an existing system.
 - b) The proposed or existing leaching facility has a minimum of five (5) feet of separation between the bottom of the leaching facility and the highest groundwater level as determined in 310 CMR 15.103(3); ~~and,~~

- c) The proposed or existing leaching facility meets the minimum Title 5 requirements regarding setback distances for Soil Absorption Systems (SAS) as set forth in 310 C.M.R. 15.211; ~~and;~~
 - d) The existing system does not allowing surface breakout of the wastewater; and,
 - e) The existing system ~~does is~~ not requiring pump-outs in excess of two (2) times in a twelve-month period; ~~and;~~
 - f) The Board of Health determines that the grant of the variance will not pose a risk to the public health, safety or the environment and ~~further,~~ meets all the variance requirements contained in Section I of the Truro Board of Health Regulations.
2. All applications for variance must be accompanied by plans prepared by a qualified Professional Engineer or Registered Sanitarian and include all information required under 310 C.M.R. 15.220.
 3. Expiration of variances shall occur after 24 months if the approved septic design has not been installed, or, at such time as determined by the Board of Health.

Article 3 - Triggers for uPgrading Sseptic Ssystems

1. **Required Upgrades:** In order to improve the quality of water for the Town of Truro by elimination of septic systems which do not comply with Title 5 and the more protective regulations adopted by the Truro Board of Health, ~~persons who own property with non-conforming septic systems shall bring those systems into compliance by upgrading them to meet the standards of this Section VI and/or Title 5 in the following situations trigger an upgrade:~~
 - a) Prior to any sale or transfer of title to the facility served by the system in all circumstances described in 310 CMR 15.301.
 - a)b) Notwithstanding any exceptions set forth in 310 CMR 15.301(2), upgrade of Nonconforming Systems shall occur prior to transfers by inheritance, between parents and their children, between full siblings, and where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the first degree of relationship to the grantor; and including creation of an LLC;
 - c) Prior to any change of use or increase in design flow of the facility served by a system;
 - b)d) Prior to the subdivision or partitioning of a parcel on which a nonconforming septic system is located;
 - e)c) If theAny system demonstratings any of the characteristics of a failed system as defined in this Section VI;
 - f) If theAny septic system that was not constructed according to the approved plan;
 - d)g) Any system with aer-if the soil absorption system is not designed to meet the design flow of the facility it serves; or-with inadequate design capacity to serve the facility;

- e)h) ~~If a~~ Any facility served by a 1978-code system that is replaced, relocated or demolished, except when the building was destroyed by fire. A ~~nonconforming compliant~~ system serving a facility destroyed by fire does not need to be upgraded to serve a new facility if the new facility is built in the same footprint as the original ~~and~~ provided that there is no change in use or increase in design flow of the facility and the system is not a failed system; ~~or~~
- f)i) The liquid depth in a leach pit is ~~less at least than~~ six inches from the inlet pipe invert or the remaining available volume within a leach pit above the liquid depth is less than ½ of one day's design flow.
- g)j) All non-conforming septic systems in the Beach Point and Pamet River Protection District or located within two hundred (200') feet of any Wetland or within the floodplain as mapped by FEMA shall be considered failing to protect public health, safety, welfare and the environment and shall be upgraded to meet the requirements of this Section VI and/or Title 5.
- h)k) Cesspools in Truro are herein defined as failed systems and shall be upgraded to meet the requirements of Title 5 prior to December 31, 2023. All new systems replacing cesspools shall be installed and certified by that date.

2. Multiple Systems on One Lot.

- a) ~~In the event of the failure of one septic system on a lot that has- On a parcel with more than one non-conforming septic system, and a total design flow on the parcel is less than 2000 gallons, the failing system shall be immediately upgraded and the remaining non-conforming septic systems shall be inspected by a Department of Environmental Protection system licensed -Inspector pursuant to Section 15.340 of Title 5 (hereinafter, "DEP System Inspector"), except where the total cumulative flow is over 2000 gallons per day, then all systems shall be upgraded with pressure distribution in accordance with Title 5.- If any of the remaining non-conforming septic systems shall fail inspection as defined in the Title 5 Official Inspection Form, and the Truro "addendum to MA title 5 inspection form" or if the inspection shall reveal that the system is a "Failed System" as defined in Article (3) set forth above, the non-conforming septic system shall be immediately that system must be upgraded to a fully conforming Title 5 septic system.~~
- a)b) ~~If the design flow on a parcel is over 2000 gallons per day, then all systems shall be upgraded with pressure distribution in accordance with Title 5.~~

3. Time for Upgrades and Administrative Consent Orders

PURPOSE: To allow the Town to execute and agreement with private property owners who need to upgrade or repair their cesspools or septic systems during the Municipal wastewater planning process.

DEFINITIONS:

ADMINISTRATIVE CONSENT ORDER (ACO) is a duly executed and recorded document that

affords a property owner in Truro an opportunity to defer major repair, replacement and /or upgrade of a failed on-site wastewater treatment system until a municipal plan is available to direct the course of action for that owner or until a time frame specified and requires funds for a septic upgrade be placed in an escrow account.

SYSTEM INSPECTION REPORTS: Inspections of septic systems shall report on the functioning and condition of the system, and a description of the components. This report will be the basis to determine whether a property is eligible for an Administrative Consent Order (ACO) or will be required to upgrade immediately. If an inspection is required by Order of the Board of Health, or by the Truro Board of Health regulations, those properties with a cesspool system will not be required to submit a title 5 inspection form; however, a licensed inspector must provide the Board of Health with a letter describing the condition of the cesspool system and a description of its components.

TIME FOR UPGRADES

All onsite septic systems shall be upgraded within one hundred and eighty (180) days from completion of an inspection of the system whenever an inspection determines that the system requires upgrade due to a condition identified in Section VI, Article 3 of the Truro Board of Health Regulation or Title 5.

The Board of Health may grant a variance extending the time for completing the required upgrade, subject to the property owner entering into an Administrative Consent Order within thirty (30) days from completion of the inspection.

Commented [EB4]: What are the criteria for entering into an ACO?

ADMINISTRATIVE CONSENT ORDER

Administrative Consent Orders shall be on such terms and conditions as the Board determines are in the best interests of protecting public health and the environment until such time as the system is upgraded.

All Administrative Consent Orders shall have the following minimum terms:

Commented [EB5]: Can the Board require that a site plan be completed by the property owner while the planning process moves forward?

1. The Board of Health agrees to extend the time for upgrading the system for a specified period of time, provided that there is compliance with the terms of the ACO;
2. The Property owner agrees to deposit a predetermined sum of money into an interest-bearing escrow account in an amount sufficient to complete the required upgrade; said sum may be paid in installments;
3. The Property owner agrees to upgrade the system upon expiration of the stay;
4. The Property owner agrees to periodic inspections and pumping of the system as needed;
5. The Property owner agrees to abate any imminent health hazards arising prior to upgrade of the system, which may require earlier repairs or upgrade; and
6. The Property owner agrees to record the ACO in the chain of title to the property and that the ACO will be binding on any successors in interest.

Commented [EB6]: How would this be calculated?

Notwithstanding the terms of this Regulation or an ACO issued pursuant thereto, the Board reserves the right to issue any such order as may be deemed necessary to protect public health and the environment from an imminent hazard caused by any onsite septic system, including requiring pumping, repairs, or immediate upgrades.

All requests for an ACO shall be processed in accordance with Article I of the Truro Board of Health Regulations and Title 5 and shall be within the sole discretion of the Board.

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Article 4– Required Septic System Inspections

1. A current Inspection Report completed by a MA licensed Septic System Inspector shall be filed in the following circumstances:

- a. At or within two years prior to the time of sale or transfer of title to the facility as defined in Article 4 of this Section VI and title 5, 310 CMR 15.301;
- b. With an application for a building permit that proposes an increase in living space as determined by the Truro Health Agent, ~~;~~ if an applicant or a direct abutter is aggrieved by the determination of “increase of living space” by the Health Agent, the applicant may appeal this determination to the Truro Board of Health;
- ~~c.~~ With an application for a *special permit* that allows uses not otherwise permitted by the Truro Zoning Bylaw;
- ~~d.~~ With and A application for a new license or transfer of an existing license,;
- ~~e.~~ or Every three years at the renewal of the annual operating permit for the operation of a motel, cottage colony, cabin, campgrounds, lodging house or restaurant. (see also 2.h in this article)
- ~~c.~~
- ~~d.f.~~ Prior to renewal of permits for a facility served by a shared system. Inspections for all shared systems are required once every 3 years. Shared systems include condominiums, motels and camps and cabins.
- ~~e.g.~~ Prior to any change in use as defined in these regulations.
- ~~f.h.~~ At such time as a property owner/business owner is so ordered by the Board of Health.

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Commented [EB7]: it was suggested that the Board consider setting a threshold value for the building permit, such as greater than \$10,000.

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2. Inspection Criteria:

All system inspections shall be documented in an official Title 5 inspection form and a Town of Truro Septic “addendum to MA title 5 inspection form”. An inspection shall not be considered complete unless all information required on both forms is provided. In addition to the inspection criteria set forth in Title 5, the following criteria shall be observed in conducting system inspections:

- a) An open inspection of all components of the system is required. If a component cannot be found or uncovered after a reasonable search, the inspector must provide evidence for the system’s success or failure. Replacement or installation of the component is required in this instance.
- b) The septic tank shall be pumped at the time of inspection if it has not been pumped within the past 3 years.

- c) Leach pits must have at least 6 inches of leaching capacity below the outlet invert in order to pass the inspection. The 6 inches of leaching capacity is determined by clean sidewall absent of staining or evidence of high water. The Inspector must clearly indicate on the inspection form the height of standing liquid in any leaching component, the level of staining in any leaching component, and the description of both sanitary tees in any inspected tank. In the case of missing sanitary tees, no passing report shall be issued unless there is proof (copy of permit) of the correction of the deficiency.
 - d) Any work for the correction of component failures, such as, but not limited to, eroded distribution-boxes, new piping, sealing a tank or installing new tees will require a valid disposal works construction permit, inspection and issuance of a certificate of compliance.
 - e) If the inspector finds that the access port covers of the septic tank inlet and outlet, distribution box and soil absorption system are not within 6 inches to grade, risers shall be provided as needed and the installation of risers shall be indicated in the septic system report.
3. **Failed systems shall include:** cesspools; non-conforming systems as defined in Article 2; systems without adequate separation to groundwater; systems with leaching areas/pits that are essentially at capacity, as defined herein; systems that were not designed to accommodate the use; any system deemed as failing to protect public health, safety and the environment.
 4. **All Inspections** shall be conducted by a MA licensed Title 5 inspector, using both the local and state inspection forms; the local form and required water test results shall be attached to the State form when filed in accordance with, and addition to, the requirements of Title 5 for septic inspection reporting.
 5. **The septic inspector** must verify that the use of the facility (ie; # of bedrooms) matches the design flow of the system (ie; a 4 bedroom dwelling should have at least 440 gpd design flow). Design flow shall be based on the records on file at the office of the Board of Health and use of the facility, including the number of bedrooms, shall be based on a visual inspection at the time of inspection.
 6. **Difficulty in Locating Components:** If a complete inspection cannot be performed, the inspector must provide adequate documentation of the specific conditions which prevented a complete inspection and should indicate on the inspection form how the inspector attempted to locate components; in this instance the report shall indicate that the system “Needs Further Evaluation from the Local Approving Authority.” The Local Approving Authority shall evaluate all “Needs Further Evaluation” entries on the inspection form and determine whether further investigation is required to adequately evaluate the system.

Commented [EB9]: Gregg Corbo suggests to shorten this and reference "as defined in article 1"

Article 5- Subdivision Plans

- 1) All new subdivision plans shall have the proposed well location and septic system on each lot. These locations shall meet all sideline and other setback and distance requirements.
- 2) The Plan shall be on file with the Building Commissioner and Health Agent.

- 3) Applications for septic and well permits shall adhere to the plan unless sufficient data ~~is~~ are presented to the Board of Health to justify the change.

Article 6 - Bedroom Count

(1) **Bedroom Count Determination.** Notwithstanding the general provisions of Section 15.002 of Chapter 310 of the Code of Massachusetts Regulations, there shall be no presumption that single-family dwellings have at least three bedrooms in the Town of Truro. In each instance, a specific determination relative to bedroom count must be made without reliance upon any presumptions. The Health Agent shall have the authority to make the initial bedroom count determination. If the Health Agent finds the determination in a specific instance should be made by the Board of Health, the Agent may, in their sole discretion, refer the matter to the Board of Health for a final determination. The Agent may also, in their sole discretion, refer the bedroom count determination to the Board of Health upon request of the applicant.

(2) **Deed Restriction.** A deed restriction may be required by the Board of Health to ensure that use of the septic system as proposed will not negatively impact the public health, safety, welfare or the environment.

(3) **Building Permits.** No building permit, ~~foundation permit, plumbing permit, special permit or variance~~ shall be issued until a Disposal Works Construction Permit has been issued for installation of a subsurface sewage disposal system designed to accommodate the bedroom count or the Board of Health has issued a written determination that the existing system is adequate for what is proposed.

(4) **Floor Plans and Inspections.** For existing facilities, in order to determine compliance with any provision of the foregoing regulations, a floor plan ~~must be filed with the Truro Board of Health at the time of submission of an inspection report~~ ~~may be requested by~~ the Health Agent to make a determination as to bedroom count. If the Health Agent deems it necessary, they may refer the determination of the bedroom count to the Board of Health for a vote. ~~If the Board of Health, by a majority vote of its members, deems that an inspection of an existing residence is necessary to confirm the bedroom count, the Health Agent, with the applicant's permission, shall inspect the premises and report their findings to the Board.~~

~~(4)(5)~~

~~(5)(6)~~ **Assessors' records, and old unstamped plans and the like** will not be considered as sufficient evidence of the size of the facility for purposes of determining design flow. In the event of a discrepancy between the results of the visual inspection and existing records, an in-person inspection by the Health Agent will be required and the Health Agent's determination of the size of the facility will be final.

Article 7 - Regulation of Separate Site Systems

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1) Septic systems shall be constructed on the same lot as the facility to be served.

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2) Variances from this Article may be granted by the Truro Board of Health for structures in existence prior to March 31, 1995, provided all of the following conditions are met:

- a. The system can be installed on a contiguous property owned by the same person and title to the lots is merged by virtue of a deed recorded at the Barnstable County Registry of Deeds;
- b. The system is not being installed for the purpose of increasing the size or use of the existing structure; and,
- c. The system will replace or repair a pre-existing, non-conforming septic system or components.

3) Any grant of variance pursuant to this Article must also be made in accordance with Article 2 of this Section VI and Section I of the Truro Board of Health Regulations.

Article 8- Innovative/Alternative Technology

Preamble: In considering the permitting and use of various alternative septic treatment technologies in the Town of Truro, the Board of Health of the Town of Truro recognizes that there may be specific local circumstances which warrant the Board to require more stringent conditions for the installation and monitoring of these alternative systems than may be required by the Massachusetts Department of Environmental Protection. As allowed under Massachusetts General Laws Chapter 111, Section 31 and as required by the revised 310 CMR Section 15.285 (2d), 15.286 (5) and 15.288 (4), the Board of Health of the Town of Truro hereby reserves the right to impose any additional conditions or monitoring requirements it views as necessary to ensure the safe performance of any alternative onsite septic system which the Board agrees to permit in the Town of Truro.

1). **Applicability:** The use of I/A technology is required in the following circumstances:

- a) for flows greater than 600 GPD;
- b) for nitrogen credit applications (these are only allowed by request in limited circumstances in Truro);
- c) for upgrade of certain non-conforming systems as determined by the Board of Health;
- d) for upgrades of previously approved systems that exceed current nitrogen loading standards of 110 gpd/10,000sf of lot area;
- e) in certain cases where a variance is required and circumstances support the use of I/A to mitigate the environmental impact of the proposed system, as determined by the Board of Health.

2). **Standards:**

- a) In all of the circumstances described above, the I/A System shall be designed to achieve/produce no greater than 19 mg/l total nitrogen (TN) concentration in the effluent by using the secondary treatment achieved with an approved innovative/alternative (I/A)

septic system. At least 1 lab test showing TN shall be submitted annually to the Health department.

- b) ~~Any existing facility with a design flow greater than 600 gpd shall be designed to achieve/produce no greater than 19 mg/l total nitrogen concentration in the effluent by using secondary treatment achieved with an approved innovative/alternative (I/A) septic system that complies with the requirements of this Section VI. At least 1 lab test showing TN shall be submitted annually to the Health department.~~

- b) I/A Systems shall be tested and reported on a quarterly basis, unless approved for reduced testing in accordance with O&M requirements, by means of obtaining an effluent sample from the distribution box or pump chamber to determine if the system meets the post-treatment standard of less than 19 mg/l total nitrogen. The results of such evaluations shall be submitted to the Board of Health within forty-eight hours of receipt thereof.

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3) Non-Performance.

- a) Non-performance includes any I/A system that has been determined to be failing to protect public health and safety, and the environment, ~~or~~ an I/A system with equipment failure or an unresolved alarm event, or components that are not functioning as designed, or components that are not functioning in accordance with the manufacturers specifications, or a system that is in violation of the terms of its approval by the Truro Board of Health.
- b) Non-performance requires written notification by the operator to the Truro Health Department within 48 hours receipt of lab test, along with a statement describing what corrective actions will be taken.
- c) Corrective actions must be taken ~~immediately~~ (within 48 hours of a lab report or field test) to address performance that does not meet the standards as defined herein, or specific to the approval by the Truro Board of Health.
- d) Lab tests showing exceedance of TN triggers a re-test immediately following corrective actions taken to address the exceedance, until the corrective measures are shown to have improved performance to meet the standards.
- e) Failure to comply with the process as described may result in a written warning from the Truro Health Department, followed by possible fines and a hearing with the Truro Board of Health that must be attended by the property owner and the licensed inspector.

4) Applications and Hearings.

- ~~a) Any application for a system proposing the use of I/A technology shall be submitted to the Truro Board of Health which shall hold a public hearing to consider its approval.~~
- b) a) All applications shall include a copy of the Massachusetts Department of Environmental Protection approval letter appropriate to the I/A technology being used and the level of approval (i.e., General Use, Provisional Use, Remedial Use, Piloting Use, or site-specific Pilot Approval).
- e) b) All applications for Pilot Approval shall include performance data from piloting sites where the I/A technology has been similarly configured and utilized.
- d) c) Notice of the public hearing of the Board of Health for the consideration of applications ~~requiring~~ for I/A approval shall be in accordance with the provisions of the

Open Meeting Laws in Massachusetts. Abutter notification will not be required unless mandated by Title 5.

5) Monitoring and Reporting.

- a) If an I/A system is approved, the applicant will be required to submit a proposed monitoring and reporting plan to evaluate the performance of the system to the Board of Health for approval. ~~T~~his plan shall include a description of any long-term operational or maintenance requirements needed to keep the system operational, and any educational, financial assurance or other mechanism proposed to ensure effective long-term operation and maintenance.
- b) Owners and operators of all I/A systems shall report the results of all operation, maintenance, and monitoring activities required by the foregoing provision or by the Department of Environmental Protection to the Truro Board of Health and to the Barnstable County Department of Health and Environment. ~~Such r~~eporting must be performed in the manner specified by the Board of Health or in the form approved by the Barnstable County Department of Health and Environment and must occur within forty-eight hours after each maintenance or monitoring event.
- c) The Board of Health ~~hereby further~~ requires that 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 action, including a proposed deadline for said corrective action, to the Truro Board of Health and the Barnstable County Department of Health and Environment within 48 hours of inspection.
- d) If at any time a monitoring or maintenance report indicates that an I/A system needs corrective action, the Truro Board of Health may hold a hearing to ~~inquire as to whether~~ determine corrective action is needed. If at such hearing, the Truro Board of Health determines that such system needs corrective action, it may take enforcement action, including but not limited to, an order to cease operation of said system or any other action otherwise necessary to protect public health, safety, welfare, and the environment.
- e) I/A Systems that do not perform are required to be immediately evaluated by the licensed operator for the purpose of the inspector forming a diagnostic opinion of what corrective actions would address the non-performance.
- ~~f) Non performance includes any I/A system that has been determined to be failing to protect public health and safety, and the environment, or an I/A system with equipment failure or an unresolved alarm event, or components that are not functioning as designed, or components that are not functioning in accordance with the manufacturers specifications, or a system that is in violation of the terms of its approval by the Truro Board of Health; or a system that is not achieving the total nitrogen standard in these regulations.~~
- ~~g) Non performance requires written notification to the Truro Health Department within 48 hours receipt of lab test, along with a statement describing what corrective actions will be taken.~~
- ~~h) Corrective actions must be taken immediately (within 48 hours of a lab report or field test) to address performance that does not meet the standards as defined herein.~~

- ~~i) Lab tests showing exceedance of TN standard triggers a re-test immediately following corrective actions taken to address the exceedance, until the corrective measures are shown to have improved performance to meet the standards.~~
- ~~j) Failure to comply with the process as described may result in a written warning from the Truro Health Department, followed by possible fines, and a hearing with the Truro Board of Health that must be attended by the property owner and the licensed inspector.~~

6) Record Notice at Barnstable Registry of Deeds.

- a) All applicants gaining Board of Health approval for the installation of any I/A systems shall be required to record at the Barnstable County Registry of Deeds a Notice that the property is served by an I/A system, ~~together with an explanation of the Inspection, Monitoring and Reporting requirements, including the requirement of a service contract for the life of the system.~~
- b) **No Certificate of Compliance** for the installation of an I/A system will be issued until proof of recording is filed with the Health Department.

Article 9 - Required Setbacks for System Components

Notwithstanding the provisions of Title 5, 310 C.M.R. 2.11, all systems shall conform to the following minimum setback distances for septic tanks and soil absorption systems (SAS), including reserve areas, as measured in feet and set forth below:

	<u>Septic Tank or Pump Chamber</u>	<u>SAS</u>
Surface Water (except Wetlands)	50'	100'
Wetlands	100'	150'

Article 10 - Existing Systems Serving New Construction

Commented [EB11]: This section needs discussion

For systems designed and approved prior to March 31, 1995, the size of the existing system shall not be considered in determining whether a change in use or new construction in the facility served by the system will result in an increase in design flow, i.e. an increase in the number of bedrooms, restaurant seats, retail space, office space etc. for facilities listed in 310 CMR 15.203(2) through (5), rather review of the existing use of the facility (i.e., existing bedroom count; existing restaurant seats; existing retail space, etc.) at the time of the change, as determined by the Truro Health Agent, will be used to make such determination.

No increase in design flow to any system shall be allowed unless the lot meets the requirements of 15.214, Nitrogen Loading Limitations, and Article 11 and Article 13 below. Should an increase in design flow be allowed, the system shall be upgraded in full compliance with Title 5 for new construction.

Article 11 - Buildable Upland Calculations for Nitrogen Loading Limitations

When applying the nitrogen loading limitations set forth in Title 5 and this Section VI of the Truro Board of Health Regulations (see Article 14), only Buildable Uplands shall be included in the lot area calculations.

Article 12 - Deed Restrictions

- 1) Any deed restrictions required under this Section VI or under Title 5 shall be submitted to the Health Agent for review before they are finalized and executed.
- 2) Each deed restriction shall adequately describe the property and all restrictions placed thereon (i.e., bedroom count limitations shall include the number and location of approved bedrooms; monitoring agreements shall describe the specific monitoring and maintenance requirements, etc.).
- 3) All deed restrictions may shall contain a provision permitting the Truro Health Agent to inspect the premises to ensure compliance with the provisions of the deed restriction at reasonable intervals and upon reasonable prior notice.
- 4) ~~All deed restrictions~~ A deed restriction required by the Board of Health, or their Agent shall be recorded at the Barnstable County Registry of Deeds ~~and~~ Proof of recording shall be submitted to the Health Department prior to the issuance of the Certificate of Compliance for the system.
- 5) A deed restriction required by the Board of Health, or ~~its~~ their Agent shall be recorded prior to the ~~issuance of the Disposal Works Construction permit, or approval/sign-off~~ on any building permit, as determined to be required for compliance with these local regulations and Title 5 by the Board of Health or its Agent.
- 5)6) A deed restriction is required by the Board of Health or their Agent prior to sign-off on all ADU specifying it's approval and the requirement for year-round rental in perpetuity.

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Article 13 - Nitrogen Loading Limitations

- 1) The Truro Board of Health ~~hereby~~ requires that all properties within the Town of Truro meet the loading restrictions set forth in 310 CMR 15.214 and contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) for every 110 gallons per day of design flow ~~and that a~~ All systems designed to serve said facilities must meet the same restrictions and requirements contained in Title 5 as the "Nitrogen Sensitive Areas" defined in 310 CMR 15.215 irrespective of whether the properties are located within "Nitrogen Sensitive Areas" as so defined.
- 2) Upgrades for systems that exceed current nitrogen loading shall include the use of I/A technology ~~the use of p~~ Pressure distribution may be required when indicated and

determined by the Board, ~~to mitigate such as a need for~~ certain variances such as depth to groundwater, lateral separation to marine water bodies or private wells.

Article 14 - Septage Haulers and Septic Installers Licenses

1. A **Septic Installers license** is required in the Town of Truro for any work done to alter a septic system or its components, such as piping, tee replacement, tank and d-box replacement and tank sealing.
2. **Septage Haulers License Application:** The Board of Health will issue Septage Haulers Licenses only upon written application that includes the following information:
 - a) name and address of applicant and business name under which applicant will operate.
 - b) written description of all equipment utilized in the business, including the capacity of any tanks; and an emergency contact name and number of a person available for contact 24 hours a day in cases of emergency.
- ~~3. **Inspection:** Prior to the issuance of the Septage Haulers License and annually thereafter, all equipment of the business must be inspected by the Health Agent. All equipment must be clearly marked and identified with markings indicating the capacity of the tank. Truck tanks must be cleaned and made free of sand and sludge for every inspection. Gauges must be cleaned and calibrated so that exact volume is easily determined.~~
- ~~3. **Septage Coupons:** Septage coupons must be ~~completely and~~ properly filled out. The name, date, location and volume for each system serviced must be provided. The signature of the hauler and the customer must be executed on each coupon in order to validate the origin of the waste in the Town of Truro. Septage haulers are required to supply accurate/legible information to the Board of Health as a condition of their License.~~
4. **Chemicals and Acids.** Use of chemicals and acids for cleaning cesspools and septic systems is prohibited.
5. **Failing Systems.** As a condition of their License, all Licensees shall accurately report all malfunctioning systems to the Board of Health, including but not limited to, the address of the malfunctioning system, the nature of the problem and the repairs,
- ~~6.1. Septage haulers are required to supply accurate/legible information to the Board of Health as a condition of their License.~~
- ~~7.6. Licenses.~~ Licenses go into effect January 1st of each year. The annual fee for Licenses shall be determined by the Board of Health each year.

8.7. Violations. Failure to comply with any of these regulations shall constitute a violation which may result in a show cause hearing before the Board of Health to determine whether the License should be revoked. Violations may also result in the imposition of fines and/or any necessary legal action to be undertaken by the Board.

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Article 15- Maintenance requirements

1. Leach areas with pressure distribution must be inspected annually, by a PE per Title 5;
2. Maintenance of a septic tank must be completed when ordered by the Board of Health. If a septic tank has not been pumped within 3 years of a transfer of deed, the tank must be pumped as part of the septic inspection.
3. Maintenance by pumping septic tanks is recommended every 3- 5 years for residential systems, depending on the amount of use.
4. Maintenance of Grease traps includes quarterly pumping as required by Title 5.

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Article 165- Miscellaneous Provisions

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1. **As-Built Cards.** The measured location of all components of each septic system shall be recorded on a septic "As Built" card and filed with the Health Agent prior to the issuance of a Certificate of Compliance. The installer shall verify on said "As Built" card that the components are installed in accordance with the locations shown on the approved septic plan.
2. **Severability.** If any Article, section, paragraph, sentence, clause or phrase of these regulations should be declared invalid for any reason, such declaration shall not affect the remainder of these regulations which shall remain in full force and effect.

Minutes of the Truro Board of Health, Tuesday April 19, 2022

This was a remote meeting. Board members in attendance:

Chair Tracy Rose, Vice Chair, Jason Silva Board Members: Helen Grimm, Brian Koll, Candida Monteith, Tim Rose. Also Present: Health and Conservation Agent Emily Beebe.

The meeting was called to order at 4:30 PM by the Chair, Tracey Rose; she announced the remote meeting procedures and described the process for public participation.

Change of Manager: Ebb Tide Condominiums:

Priscilla Silva was on the call to present to the Board. Chair Tracy Rose iterated the importance of keeping contact information legible and readily available for the public and Ebb Tide community. Ms. Silva stated that all contact information had been posted. The Board members were all in agreement that the change of manager should be approved. **Motion:** Board member Timothy Rose moved to approve the change of manager. **Second:** Board member Brian Koll **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Addition of co-Manager: Beach Point Co-Op:

There were technical complications on the end of the applicant. The board decided to approve the application. **Motion:** Board member Jason Silva moved to approve the new co-manager. **Second:** Board member Brian Koll; **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Change of Manager: Sladeville Condominiums:

The applicants requested a continuance until the next Board of Health meeting. **Motion:** Board member Helen Grimm moved to approve the continuance request. **Second:** Board member Timothy Rose; **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Farmers Market: New Applicant – Ellery Althaus/Bagel Hound:

Ellery Althaus was not on the call to present his application. The board discussed his application and agreed to approve the new applicant request pending that Mr. Althaus submit the required pending documentation. **Motion:** Board member Brian Koll made a motion to approve the application with the condition that the following pending documents be submitted: 1. Documentation of the permit for the kitchen facility 2. Location of the kitchen facility be submitted. **Second:** Board member Helen Grimm. **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Variance Requests/Local Upgrade Approval: 127 & 133 South Pamet Road, Dennis

(continued from the 4/5/2022 meeting) The applicants issued a request for continuance. **Motion:** Board Member Brian Koll moved to approve the continuance. **Second:** Board member Timothy Rose. **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Variance Request: 51 South Pamet Road:

Jason Ellis was on call to represent the project. He explained that the proposed upgrade is needed to comply with the new cesspool regulation. The property has a 4-bedroom single family dwelling with two cesspools. The proposal is to install a new 1500-gallon tank and a leach area. The applicants are requesting a 34-foot variance to the flood zone. Chair Tracy Rose asked whether there was a new water test on file for the property. The Health Agent affirmed that one

would be on the way. Chair Tracy Rose asked why the cesspool was not upgraded in 2019 when the property transfer happened. There was no further information available at the time of the meeting to answer the Chair's question. **Motion:** Board member Brian Koll moved to approve the variance. **Second:** Board member Tim Rose; **Vote: 5-0-0; the vote was unanimous, and the motion passed.**

Groundwater Resources Discussion

Scott Horsley was on the call to discuss groundwater resources with the Board. He explained that he is working with the Town to address nutrient loading and identify ways to comprehensively protect groundwater resources. One concern is the interaction between private wells and septic systems. Mr. Horsley explained that one issue for properties served by private wells and on-site septic systems is that some wells may be downgradient from sewage systems, whether it be their own system or one from an abutting property. Those properties that have downgradient wells may likely have higher nitrogen levels. Scott Horsley is working with the Town to create a regulation to ensure that private wells are not in line with the groundwater flows from septic systems. Mr. Horsley shared an overview of some of the water resource issues that need to be addressed, including stormwater remediation. Chair Tracy Rose expressed excitement towards the upcoming stormwater and groundwater management plans. Board Member Jason Silva has a question about the woodchip treatment being incorporated in innovative alternative analysis sewage systems. Mr. Horsley explained that woodchip bioreactor systems have been incorporated to help break down the nitrogen in the groundwater before it enters the leach field. The Health Agent said that focus areas include stormwater management and wastewater management, and that she is working other Town staff to task and prioritize the plans. Board Member Jason Silva asked whether it wouldn't be more cost effective to put Truro on town water. Mr. Horsley explained that the ideal outcome would be a hybrid of some properties being serviced by town water while others would be serviced by innovative alternative analysis sewage systems. Board member Helen Grimm asked whether there were other contaminants to consider other than nitrogen, or factors that are contributing to the contamination of groundwater in Truro. Mr. Horsley stated that there are many factors to consider when talking about groundwater protection, however, the installation of innovative alternative analysis sewage systems would help filter the contaminants. Chair Board member Tracy Rose pointed out the importance of educating the public on different groundwater and wastewater issues.

Discussion on Annual Town Meeting 2022- April 30 and outdoors

The Health Agent stated that no new changes had come about since the last meeting regarding the upcoming town meeting. Chair Tracy Rose explained that the board should keep an eye on Covid in the coming days and suggested meeting or touching base in a week to make sure the public is protected. Town Manager Darrin Tangeman explained that there would be 7 tents with capacity for 200 participants. He also added that he did not incorporate a rule to have people segregate based on whether they chose to mask or not and pointed out that masking would be optional during the meeting and that it would be held outdoors. The seats will be in pairs. The Town Manager pointed out that the latest updates for the meeting will be posted on the town website on the selectboard page. Board member Brian Koll suggested using the metric calculation of 200 covid cases per 100,000 people as a trigger for returning to a masking mandate; he suggested reaching out to Outer Cape Health for COVID-19 case statistics.

Health Agent's Report

The Health Agent stated that the Cape Cod Mosquito Control Program, the Cape Cod National Seashore, Wellfleet Health department and Truro Health department have been in frequent contact regarding the mosquito statistics.

Motion: Board Member Tim Rose Moved to adjourn the meeting.

Second: Board Member Brian Koll; Vote: 5-0-0; the vote was unanimous, and the meeting was adjourned at 6:16 PM.

Respectfully submitted by Nina Richey

Minutes of the Truro Board of Health, Tuesday May 3, 2022

This was a remote meeting.

Board members in attendance: Chair Tracey Rose, Vice Chair, Jason Silva, Board members: Helen Grimm, Brian Koll, Candida Monteith. Also Present: Health and Conservation Agent Emily Beebe.

The meeting was called to order at 4:33 PM by the Chair, Tracey Rose; she announced the remote meeting procedures and described the process for public participation.

Change of Manager for Whitman House Condominiums: Tom Makuen, Dave Frennesson, Sharon Mandi, Gavin Black, will be co-managers; RKM will be the off-site manager. After brief discussion, there was a motion to approve the application for new managers. **Motion: Board Member Brian Koll moved to approve the change of manager. Second: Board Member Jason Silva; vote: 5-0-0: The vote was unanimous, and the motion was approved.**

New Food Service Permit: Gavin Scott Cloud was on the call representing Jams. He was trying to open May 20 for the season and would be reaching out to the Health Department for inspection. **Motion: Board Member Brian Koll moved to approve the application for a new food service permit for Jams. Second: Board Member Helen Grimm; vote: 5-0-0: The vote was unanimous, and the motion was approved.** The Agent asked that the owner call for a pre-operational inspection prior to opening.

20 Great Hollow Road: A request for the extension to the waiver of time for installation. The request was to extend the date to August 12, 2022. **Motion: Board Member Helen Grimm moved to approve the extension until 8/12/2022; Second: Board Member Brian Koll ; vote: 5-0-0: The vote was unanimous, and the motion was approved.**

Variance request/Local Upgrade Approval: 127 & 133 South Pamet Road, This was an item continued from the 4/17/2022 meeting. A request was emailed by the applicant to continue the matter to May 17. The Agent was asked to provide an update on this matter. Since the Board last met on the project, the ZBA conditionally approved moving the Boathouse structure to the property at 127 South Pamet. There was a plan to remove the existing 1 BR studio on the property at 127 South Pamet and replace it with the Boathouse. There was still a question about what the configuration of the septic system would be. Board member Helen Grimm asked about the different ramifications of the lot size. The Agent stated that the applicant had calculated the current area that is upland, which does

Candida Monteith was concerned about the letter from the Park service. The Agent replied that the concerns expressed appeared to be about zoning; Member Monteith asked if the property (127 and 133 South Pamet Road) would continue to be 2 lots or would be merged as 1 lot. She also asked that because there was a purchase, didn't the system need to be upgraded? Further, because it is so close to the wetlands, didn't it need to be I/A? The Agent replied that when a property is transferred, it must be inspected, and upgraded if it is in failure, or not to code; the Dennis property was inspected and has a title 5 system.

Motion: Board Member Brian Koll moved to continue the matter to the next Board of Health meeting on May 17, 2022; Second: Board Member Helen Grimm; vote: 4-0-1 with Tracey Rose abstaining; the motion was approved.

Local Board of Health Regulation Review

There was brief discussion about the ACO regulation draft, which included a sample letter from Provincetown, that demonstrated the use of the Administrative Consent Order process between the Town and property owners. Brian Koll noted that the purpose section of the regulation had not yet been completed, and some language was suggested. The Chair suggested that there needs to be criteria for use of this form, and that it would be used on a case-by-case basis.

Jason Silva was pleased that we were looking at this proactively and exploring options. He felt that the option of sewerage must include that Beach Point is a vulnerable resource area due to erosion. The Agent agreed, as Shore Road is a critical aspect of emergency planning, and also carries the public water supply; the conversation of low-lying roads is on-going and needs to be a part of the wastewater discussion.

Board Member Brian Koll had a question about the language in the proposed regulation relative to escrow payments and how they would be calculated. It was suggested that the draft regulation be reviewed again with Town Counsel and determine if monies in escrow would be required or optional, and if required how would that work, and with what criteria would "optional" be determined. The Agent suggested that the ACO may not necessarily need to just be used for a sewer connection but could be for a shared (cluster) system. The Chair agreed that this was a tool to keep the property owner engaged and a part of the solution.

Board Member Helen Grimm asked whether composting toilets would be options reviewed as part of the conversation on wastewater alternatives. This would be a topic that could be put in the hopper for consideration. (!)

Board Member Candida Monteith left the meeting at 6:15.

MINUTES:

Motion: Board Member Brian Koll moved to continue minutes to the next meeting; Second: Board Member Helen Grimm; vote: 4-0-0; the motion was approved.

REPORTS

Health Agent's Report- The Agent reported an uptick in positive COVID-19 cases, in Truro, and neighboring Towns, especially in the schools. Also, announced the Outer Cape Public Health Needs assessment, which is easily found on the Health Department web page.

Motion: Board Member Jason Silva moved to adjourn the meeting

Second: Board Member Helen Grimm; vote: 4-0; the meeting adjourned at 6:22 PM

Respectfully Submitted by: Emily Beebe