

Town of Foxborough Board of Health
Regular Meeting
Meeting Minutes – April 8, 2024

Members Present: Betsy Allo, MPH, Chair, Robin Chapell, M.S., R.S., and Sophia Manos, Clerk
Members Absent: None

Health Department Staff Present: Matthew Brennan, R.S., Director of Public Health and Diane Passafaro, Public Health Coordinator/Meeting Recorder.

Others Present: Bill Buckley, Albert Daniels, Rich Feeley, Marcia Galvin, Jennifer Gutbezani, Jeff Lovely, Kathryn O'Brien, Fei Zhens

Betsy Allo opened the regular meeting of the Foxborough Board of Health, under the Open Meeting Laws of the State of Massachusetts, at 7:02 p.m. on April 8, 2024. The meeting took place in the Andrew A. Gala, Jr. meeting room inside the Foxborough Town Hall, 40 South Street, Foxborough, MA.

7:02 p.m. Public Hearing – Adoption and/or Amendments to the Town of Foxborough Board of Health Regulations

Public testimony, discussion, and subsequent vote relative to the adoption and/or amendments of the Town of Foxborough Board of Health Regulations. Regulations include; Fee Schedule, Animal and Fowl, Biological Safety, Body Art, Demolition, Dumpsters, Gasoline and Heating Oil Tanks, Fats, Oils, and Grease, Food Establishments, Floor Drains, Housing Code, Private Wells, Prohibiting Smoking in Workplaces, Swimming Pools, Tanning, Title 5, Tobacco, Toilets

S. Manos made a motion to open the public hearing for the purpose of gathering public testimony regarding the promulgation of new and amended Town of Foxborough Board of Health regulations. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0.

B. Allo provided instructions on public hearing procedures and stated that all those providing public testimony would be required to state their name, address and affiliation to the Town, at which time they would be allowed two minutes to speak.

Public testimony was made available for the following Town of Foxborough Board of Health regulations:

- **Fee Schedule**

B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Fee Schedule. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the Town of Foxborough Board of Health Fee Schedule with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Animal and Fowl**

M. Brennan provided a brief overview of the changes made to the Town's already existing Animal and Fowl regulations. The biggest change was the public hearing requirement for initial permits. Although existing regulations still require abutter notification, the public hearing requirement was removed and is only required if the request for permit is contested by an abutter. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Animal and Fowl Regulation. There was no public testimony. There were no comments from the Board of Health.

S. Manos made a motion to accept the amended Town of Foxborough Board of Health Animal and Fowl Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Biological Safety Regulations**

M. Brennan explained the Biological Safety Regulations are newly proposed and are intended to protect the Town from regulated biological agents. It would require industries to come in front of the Board and explain the biological agents used within their operation. This information would then allow the Board of Health and other Town officials to have procedures in place to safeguard the Town from these biological agents. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Biological Safety Regulation. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the new Town of Foxborough Board of Health Biological Safety Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Body Art**

M. Brennan stated the amended Body Art regulation revises the education requirements for body art practitioners, in cases where the individual will only be performing microblading. The regulation now allows a variance to be requested. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Body Art Regulation. There was no public testimony. There were no comments from the Board of Health.

S. Manos made a motion to accept the amended Town of Foxborough Board of Health Body Art Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Demolition**

M. Brennan explained the Demolition regulation is newly proposed and intends to protect the Town from environmental spills, releases of asbestos, and other nuisances, that can often occur because of demolition activities. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Demolition Regulation. There was no public testimony. There were no comments from the Board of Health.

S. Manos made a motion to accept the new Town of Foxborough Board of Health Demolition Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Dumpsters**

M. Brennan explained the Dumpster regulation is newly proposed and intends to protect the Town from nuisances caused by dumpsters, such as windblown trash, rodents, and others concerns often brought to the Foxborough Health Department's attention on a frequent basis. The promulgation of this regulation will make enforcement easier when notified of these issues. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Dumpster Regulation. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the new Town of Foxborough Board of Health Dumpster Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Gasoline and Heating Oil Tanks**

M. Brennan stated the Gasoline and Heating Oil Tanks regulation is newly proposed and intends to protect the Town's groundwater supply from releases of waste oil, heating oil, or gasoline from metal tanks, as these tanks are prone to corrosion. B. Allo opened the floor for public testimony related to the Town of Foxborough Gasoline and Heating Oil Tanks Regulation. There was no public testimony. There were no comments from the Board Health.

S. Manos made a motion to accept the new Town of Foxborough Board of Health Gasoline and Heating Oil Tanks Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Fats, Oils, and Grease**

M. Brennan summarized the changes to the existing Fats, Oils and Grease regulation. One change includes providing establishments with training materials on how to handle fats, oils and grease, in lieu of an in-person training, as was previously required. In addition, the amended regulation now allows the Foxborough Department of Public Works (DPW) Director to establish areas of concern, such as areas prone to overflows, and require establishments within these areas to update their grease removal system upon substantial remodel of the establishment. The last major change to the Fats, Oils and Grease regulation is the reduction in permit fees for establishments who use an active grease interceptor, as these are known to be more protective of the environment. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Fats, Oils, and Grease Regulation. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the amended Town of Foxborough Board of Health Fats, Oils, and Grease Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Food Establishments**

M. Brennan explained the Food Establishment regulation is newly proposed and intends to protect residents and individuals who visit restaurants within the Town by creating procedures for food manager and CPR training. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Food Establishment Regulation. There was no public testimony. There were no comments from the Board of Health.

S. Manos made a motion to accept the new Town of Foxborough Board of Health Food Establishment Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Floor Drains**

M. Brennan stated the Floor Drains regulation is a long-standing regulation for the Town of Foxborough. Amendments made to this regulation include the right for the Foxborough Health Department to inspect floor drain systems, notification to the Foxborough Health Department of all underground storage tanks built for the purpose of holding industrial or commercial wastewater, and the install and use of any underground injection control wells must be documented and approved by the Foxborough Health Department. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Floor Drains Regulation. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the amended Town of Foxborough Board of Health Floor Drains Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Housing Code**

M. Brennan stated there were many revisions to the Housing Code regulations from its initial development. The final version of the Housing Code regulation requires a property owner to allow the Foxborough Health Department to conduct a pre-occupancy inspection before renting a dwelling unit, upon complaint, request, or in cases where previous non-compliance with the code has been seen. R. Chapell remarked she appreciated the public comment received. The Board of Health listened carefully and this is reflected in the final version of the regulation. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Housing Code Regulation. There was no public testimony. There were no further comments from the Board of Health.

S. Manos made a motion to accept the new Town of Foxborough Board of Health Housing Code Regulation, with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Private Well Regulations**

M. Brennan affirmed, there were no revisions made to the Town's already existing Private Well regulation. For the record, M. Brennan informed the Board of the written public comment received from Robert Kaitz, 219 Main Street, which questioned the need for sampling of irrigation wells. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Private Wells Regulation. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the Town of Foxborough Board of Health Private Wells Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Prohibiting Smoking in Workplace**

M. Brennan affirmed there were no revisions made to the Town's already existing Prohibiting Smoking in Workplace regulation. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Prohibiting Smoking in Workplace. There was no public testimony. There were no comments from the Board of Health.

S. Manos made a motion to accept the Town of Foxborough Board of Health Prohibiting Smoking in Workplace Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Swimming Pools**

M. Brennan explained the Swimming Pools regulation now combines the previous Board of Health water quality testing requirements with the previous pool fencing requirements for residential properties. Some changes in the amended regulation includes the removal of the mid-Season water quality testing requirements, unless otherwise warranted, but the addition of certain lifeguard requirements, at the request of the Board of Health. The amended regulation now requires all new pools to go in front of the Board of Health to request a variance from the lifeguard requirement. In addition, new pools must also install an emergency communication system that is hardwired or equipped with a communication cable and provides access to a dial tone to allow for direct access to emergency services. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Swimming Pools Regulation.

Public testimony:

Jeff Lovely, representing Normandy Farms Campground: J. Lovely spoke in opposition to the lifeguard requirement commenting he was uncomfortable with the idea of pools receiving a variance that could be revoked at any time. He opined Normandy Farms Campground already operates safe pools and commented on the high number of lifeguards, 16, that would need to be hired if Normandy Farms Campground was ever required to operate with lifeguards. J. Lovely further commented the regulations do not have variance criteria to take into consideration, such as the pools shape, size and how they operate, like the State's current swimming pools regulation has. His final comment was a recommendation that the Board of Health track the State regulations in the manner that if a pool is not following code, it allows the local Board of Health to enforce.

Albert Daniels, representing Normandy Farms Campground: A. Daniels had confusion surrounding how the Board of Health would establish bather load as it relates to the number of lifeguards that would be required. He further explained the Campground's existing policy and the existing signs they utilize at their pools that state there are no lifeguards on duty. A. Daniels further opined that having lifeguards could potentially hold more liability for the Campground. In closing, A. Daniels explained all of their pools have attendants who continuously monitor the pool areas and all have radios available to them for communication.

Marcia Galvin, representing Normandy Farms Campground: M. Galvin spoke to the Board and explained the Campground's business motto as family oriented. This motto tends to result in families spending time at the pools together, as opposed to these areas being more of a drop-off setting. She also informed the Board of the Campground's policy that states anyone under the age of 16 must be accompanied by an adult. M. Galvin also commented on the need for flexibility from the Board of Health regarding the number of lifeguards required, as it is possible that there could be varying levels of use at any given pool at any given time.

Rich Feeley, representing Mayfair Realty: R. Feeley, as the owner of three pools in three different locations, was in opposition of the requirement for lifeguards. He commented, in practicality, it doesn't work and he does not see the need for this addition to the regulation after the many years without it.

J. Lovely, representing Normandy Farms Campground: J. Lovely spoke a second time on the emergency communication system requirement. He questioned and asked for clarification on the use of alternative emergency communication systems and of those that are used by Normandy Farms currently. A. Daniels confirmed there were currently no landlines in the pool areas at Normandy Farms.

R. Feeley, representing Mayfair Realty: R. Feeley asked if the use of voice over IP would meet the requirements of the proposed regulation. R. Feeley also asked what would be considered a new pool and what type of modifications would cause that pool to be considered a new pool under the proposed regulation.

Comments from the Board of Health aimed to clarify questions that arose during public testimony.

- The Board confirmed the use of voice over IP would meet the requirements of the proposed regulation.
- The Board provided examples of minor modifications, such as, replacement of a ladder or resurfacing of a pool, which would not result in a pool being categorized as a new pool under the proposed regulation. The Board added, only major construction would qualify as change to new pool status.
- To further clarify on the use of cell phones as an emergency communication device, the Board commented there is potential for cell phones to lose power or could go missing and not be available at the time of an emergency.
- The Board referred those in attendance to Page 107, where the regulation provides a list of considerations related to a variance request from the lifeguard requirement. M. Brennan commented that specific variance criteria can be discussed with the Owner at the time of request, adding, the Board of Health can decide at that time what requirements they intend on enforcing or what they may waive.

There was no further public testimony.

Discussion among the Board ensued, regarding how to further clarify the current language around the emergency communication system requirements, as well as, who would be considered a currently operating pool, as some pools are only permitted on a seasonal basis.

R. Chapell made a motion to accept the Town of Foxborough Board of Health Swimming Pools Regulation with the following amendments:

Page 105, second paragraph, third line, add “/or” so the regulations read “Emergency Communication systems, as required in 105 CMR 435.25, that are built or installed after the passing of this regulation shall be required to be within the interior of a pool fence or enclosure and must be hardwired and/or permanently affixed.”

Page 107, first full paragraph, edit first sentence to read “Upon the enactment of the Swimming Pool regulation, all pools that have been permitted in the Town of Foxborough within the last two years shall be considered to have an approved variance from 105 CMR 435.23 for Lifeguards provided they are compliant with the other

minimum sanitary standards for swimming pools pursuant to 105 CMR 435.000 and these local regulations.”

This regulation as amended to be effective April 15, 2024. S. Manos seconded the motion. B. Allo called for discussion. Hearing none, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Tanning**

M. Brennan stated the Tanning regulation was amended to include a statement of purpose, authority, enforcement, and severability sections, in order to align with other Board of Health regulations. M. Brennan made the Board aware that the training platform historically used by operators for the required tanning training, had been shut down and currently not available. He added however that the State is working on access to a new platform and since the amended regulations allow for equivalent training approved by the Board of Health, operators can be made aware of the new training platform even after the regulations are approved. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Tanning Regulation. There was no public testimony. There were no Board of Health comments.

S. Manos made a motion to accept the amended Town of Foxborough Board of Health Tanning Regulation with an effective date of April 15, 2024. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Title 5**

M. Brennan summarized the changes made to the existing Title 5 regulations which included revising the definition of bedroom to be more in-line with the Building and Assessor’s Office, increase the amount of soil needed between groundwater and a new soil absorption system within a Zone II and requires a denitrification system for all three bedroom or more homes that are new construction and located within a Zone II. In addition, the amended regulation also requires tanks older than ten years be certified by an Engineer if to be used in a repair. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Title 5 Regulation.

Public Testimony:

Bill Buckley, 3 Thompson Road, Foxborough: B. Buckley opposed the revised definition of bedroom, but provide positive comment related to the allowance and use of the deed restriction option. B. Buckley also recommended that within the minimum setback distances table, that the wetlands bordering surface water supplies component also include surface waters, bordering vegetated wetlands, and inland banks, in order for it to be in-line with Foxborough Conservation Commission requirements.

There was no further public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the Town of Foxborough Board of Health Title 5 Regulation, with the following amendments:

Page 116, Section 6, add to the end of the existing Component wording, Wetlands Bordering Surface Water Supplies, the following: “Surface Waters, Bordering Vegetated Wetlands, and Inland Banks”.

This regulation, as amended, to be effective April 15, 2024. S. Manos seconded the motion. B. Allo called for discussion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Tobacco**

M. Brennan stated the proposed regulation was substantially modified from the previous regulation. Additions include the adoption of pricing restrictions on single and multiple pack cigars, adopts a new fining structure, sets restrictions on the sale of blunt wraps, among others. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health Tobacco Regulation. There was no public testimony.

B. Allo made the Board aware of a few minor errors found within the definitions section of the regulation, explaining other Town names were still present.

S. Manos made a motion to accept the Town of Foxborough Board of Health Tobacco Regulation with the following amendments:

- Page 121, Adult Only Retail Tobacco Store definition, edit Medway Board of Health to read “Foxborough Board of Health”
- Page 124, Retail Tobacco Store definition, edit Yarmouth Board of Health to read “Foxborough Board of Health”
- Page 125, Smoking Bar definition, edit Town of Bourne to read “Town of Foxborough”

This regulation, as amended, to be effective on April 15, 2024. R. Chapell seconded the motion. B. Allo called for discussion. Hearing none, B. Allo called for a vote. All in favor.

Motion passed, 3-0

- **Toilets**

M. Brennan informed the Board the Toilets regulation was amended to address requirements for maintaining portable toilets and their surrounding area clean. Additionally, amendments also allow the Board of Health to grant variances for the use of portable toilets when they are within 30 feet from a restaurant or dwelling. B. Allo opened the floor for public testimony related to the Town of Foxborough Board of Health

Toilets Regulations. There was no public testimony. There were no comments from the Board of Health.

R. Chapell made a motion to accept the amended Town of Foxborough Board of Health Toilets Regulation with an effective date of April 15, 2024. S. Manos seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0

S. Manos made a motion to close the public hearing regarding the promulgation of new and amended Town of Foxborough Board of Health regulations. Following the close of the public hearing, Board of Health members will sign all regulations accepted during the public hearing with the exception of those amended tonight. R. Chapell seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3-0.

8:26 p.m. Board of Health members signed accepted regulations.

8:35 p.m. R. Chapell made a motion to adjourn. B. Allo seconded the motion. Hearing no discussion, B. Allo called for a vote. All in favor.

Motion passed, 3 – 0.

Sophia C. Manos, Clerk/dp