

5/31/2011

****DRAFT****

Types of businesses operating within the Town of Charlemont which require an annual license/ permit from the Board of Health; and definitions of such:

Food Establishments

- Full Food

Any person or entity which sells prepared and or packaged food to the public 12 months out of the year.

- additionally requires semi-annual inspection(s).

- Pre-Packaged Food

Any person or entity which sells pre-packaged food to the public 12 months out of the year.

- additionally requires annual inspection.

- Seasonal Food

Any person or entity which sells prepared and or packaged food to the public seasonally or less than 12 months out of the year.

- additionally requires annual/ semi-annual inspection(s).

- Temporary Food

Any person or entity which sells prepared and or packaged food to the public for a single event with a predisposed number of days.

- additionally requires an inspection from the BOH prior to commencement.

Retail Milk Sales

Any person or entity which engages in the sale of milk or milk related products to the public within the boundaries of the Town of Charlemont.

- additionally requires an annual inspection.

Retail Milk License

Any person or entity which engages in the preparation and sale of milk or milk related products to the public within the boundaries of the Town of Charlemont.

- additionally requires an annual inspection.

Camps

- Recreational Camps for Children

Any person or entity which provides accommodations to children including any day camp, primitive or outpost camp, residential camp, travel camp or trip camp on private or public land which is conducted wholly or in part for recreational purposes and accommodating for profit or for philanthropic or charitable purposes, five or more children who are not members of the family or personal guests of the operator.

- additionally requires an annual inspection.

Campgrounds

- Recreational/ Tenting

Any person or entity which provides accommodations for a person, guest(s) or parties for the purpose of camping within a tent or temporary enclosure.

- additionally requires an annual inspection.

- Motor Coach

Any person or entity which provides accommodations for any motor driven or pull behind recreational vehicle for overnight, seasonal or continuous stay.

- additionally requires an annual inspection.

Motor Home Parks

Any person or entity which provides four (4) or more "Lots" for the purpose of accepting access and use of such lot for a Mobile Home 12 months out of the year.

- additionally requires an annual inspection.

Bed and Breakfast Home/ Establishments

Any person or entity which provides a private owner-occupied house where rooms are let and breakfast is included in the rent, where accommodations may be reserved in advance as all or part of their destination or may be transient motorists seeking accommodations.

- additionally requires an annual inspection.

Swimming Pools

Any person or entity which provides access or use to a swimming pool to a person, guest(s) or parties as part of the accommodations or fees which is located on a property within the boundaries of the Town of Charlemont.

- additionally requires an annual inspection

Motel/ Lodging Establishments

In determining this definition the Board has recognized the unique make-up of our community and have taken in to consideration that the Town of Charlemont will continue to attract recreational visitors who seek temporary living and sleeping accommodations. As such, this definition shall be intended to encompass any person, entity or management company which rents to the public for a fee "temporary" living and sleeping accommodations including any room or rooms, any building or buildings which shall include any hotels, motels, cabins, cottages, condos, apartments, lodging houses and single family homes, as follows:

- Any building or group of buildings located on one or more properties which are operated by a person or entity for the purposes of providing temporary sleeping and living accommodations to four or more persons, which are not licensed as an Inn.
- occupants have use and possession of such rooms/ building(s) and furnishings for a period of 90 consecutive calendar days or less.
- operator of such establishment charges a fee to let room(s) or building(s) for use or possession or services and accommodations.
- occupants may reserve accommodations in advance as all or part of their destination or be transient motorists seeking accommodations.
 - an occupant/ transient motorist shall include any person who is not a resident of Charlemont, Massachusetts which is a temporary lodger for a period of 90 consecutive calendar days or less.

In preparing this definition the Board has utilized resources from M.G.L. 140 section 32 inclusively, and sections 22 through 31 inclusively, and the Massachusetts department of revenue M.G.L. 64G for further definitions of the relationship of an occupant, operator, occupancy and determining a threshold as to what constitutes the difference between a landlord/ tenant relationship and an operator of a motel/ lodging establishment and their guest(s).

The Board has adopted in its definition "a period of 90 consecutive calendar days or less" from the M.G.L. 64G and further described in *Lowney v. Commissioner of Revenue* in determining "occupancy". As a result, the possession for a period of 91 consecutive calendar days would not be considered "occupancy" within this definition and would hence be considered more of a landlord/ tenant relationship as apposed to an operator/ guest(s) relationship.

- the landlord/ tenant exception of a possession by an individual for a period of 91 consecutive calendar days or more shall only apply if the unit or building rented in the landlord/ tenant relationship shall no longer be available for "any" temporary rentals to occupants/ transient motorists (as described above).
- and, the unit or building shall be removed from the operator's listings for temporary rentals indefinitely.
- and, the operator shall notify the Board that they will no longer be renting such unit or building for temporary rental periods to occupants/ transient motorists (as described above).

Motel/ Lodging Establishments - continued

The Board defines the rental of cottages, condos, apartments, lodging houses and single family homes for month-to-month, and term lease basis to be that of a tenant/ landlord relationship and are not subject to an annual Motel/ Lodging Establishment license, if the following applies:

- the "tenant" uses this unit, cottage, condo, apartment, lodging house or single family home as their primary residence.
 - the term of the rental/ lease of the unit has been determined in advance.
- the tenant uses the address of the unit for their mailing, drivers license, passport, vehicle registration, voting registration and residency purposes.
- the tenant is a resident of Charlemont, Massachusetts residing in the unit for at least six months out of the year.
 - temporary living accommodations which may be for less than six months by a "resident" of the Town of Charlemont in another unit while their primary residence is being repaired due to damage by weather, fire or flood shall also be considered an exception.

The Board shall consider the following as exceptions to the description of "a single family home or condo" as follows:

- the temporary rental to a occupant/ transient motorist (as described above) of an owners' own personal primary residence while they are away on a vacation elsewhere/ out of Town.
- the temporary rental to a occupants/ transient motorist (as described above) of an owners' "second home" while the owners are living at their primary residence.
 - a "second home" shall be described as follows:
 - a "personal" home or condo owned by a person or entity which is occupied personally by the owner(s) six months out of the year.
 - the second home or condo is not located within 50 miles of the owners' primary residence.
- the "second home" exception shall not apply if the person or entity has additional temporary rentals which may be rented to occupants/ transient motorists (as described above), and such "second home" is listed and available as a temporary rental along with any and all other rentals which could accommodate such temporary rentals to occupants/ transient motorists.

- all buildings or group of buildings used as temporary rentals additionally require an annual inspection.

Massage Therapy Practice

Any person or entity which engages in providing massage therapy to the public within the boundaries of the Town of Charlemont up to 12 months out of the year.

- additionally requires an annual inspection.

Temporary Massage Therapy Permit

Any person or entity which engages in providing massage therapy to the public within the boundaries of the Town of Charlemont for a single event with a predisposed number of days.

- additionally requires an inspection from the BOH

Body Art

Any person or entity which provides body art or piercing(s) to the public within the boundaries of the Town of Charlemont.

- additionally requires an annual inspection.

Family Cemeteries

Any owner(s) as such who is a person or family member requesting to open a family cemetery for the purpose of burying a family member on a piece or parcel of land within their ownership and or control must first apply to the BOH for a family cemetery permit, such application shall include:

- the permit fee (\$25)
- a plan showing distances to current well(s) on your property and your neighbors/ abutters within 150 feet
- the map and lot number of your property
- a posting in a local newspaper for two consecutive weeks prior to the BOH hearing for your request giving the time and date of such requested hearing. (see MGL chapter 114, section 34 for additional guidance).

Perc Tests

Any owner, registered sanitarian or professional engineer who is a person, owner representative or entity requesting to perform a perc test on a property within the boundaries of Charlemont, Massachusetts must first request and arrange a scheduled date and time with the Board of Health representative for witness thereof.

- residential perc test fee (\$80).
- commercial perc test fee (\$130).

Well Installations

Any owner as such who is a person or entity requesting to dig/ drill a well on a property within the boundaries of Charlemont, Massachusetts must first provide a well permit application to the Board of Health, such application shall include:

- the permit fee (\$50).
- a plan showing distances to the current or proposed septic systems on your lot and your neighbors/ abutters properties within 150 feet.
- and the map/ lot number for your property.
- once installed the owner shall notify the BOH so that the BOH may come out and take a GPS reading of the exact location of the installed Well.
 - BOH will retain this GPS information in its database which may be utilized at future applications to the Board so as to protect this Well head from future uses which may compromise the well head protection area.

Septic Haulers

Any person or entity which hauls septic waste from any business or personal property from within the boundaries of the Town of Charlemont.

Septic Installers

Any person or entity which installs a single or multiple septic systems on or under any property located within the boundaries of the Town of Charlemont.

- new installers which have not previously installed septic systems in the Town of Charlemont are required to complete and pass a septic installers test prepared by the BOH prior to their first installation within the Town of Charlemont.

Sani-Can Permit

Any person or entity which is scheduling a public event within the boundaries of the Town of Charlemont is required to provide sanitation facilities for such event. Those sanitation facilities may be in the form of Sani-can facilities and a/ multiple hand washing stations. A brief guide to BOH minimum requirements are as follows:

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|----------------------------|---------------------|---------------------|
| - 1 - 100 persons/ event | 1 handicap sani-can | |
| - 100 - 300 persons/ event | 1 handicap sani-can | 1 regular sani-can |
| - 300+ persons/ event | 1 handicap sani-can | 2 regular sani-cans |
- 500 persons or greater should consult the BOH well in advance for further consultation of the event.
 - sani-can fee/ event (\$25)

New Septic Installation

Any owner as such who is a person or entity requesting to install a new septic system on a property within the boundaries of Charlemont, Massachusetts must first seek a permit from the Board of Health, such request shall include:

- the permit fee (\$230), includes perc test.
- additionally required prior to BOH approval for installation:
 - an application for disposal works construction permit completed by the register sanitarian or professional engineer.
 - a form () requesting a/ any variance to the BOH
 - a septic plan prepared, stamped and signed by a register sanitarian or professional engineer in accordance with 310 CMR 15.00.
 - plan shall include distances to the current or proposed well(s) on your lot and your neighbors/ abutters properties within 150 feet.
 - plan shall include the map/ lot number for your property.
 - a final inspection prior to covering the system
 - an "As built" plan prepared by the RS or PE prior to Certificate of Compliance being issued.
- systems where design flows or water uses exceed 2000 gallons per day require the septic plans to be prepared/ reviewed, stamped and signed by a professional engineer.

Repair Septic Installation

Any owner as such who is a person or entity requesting to repair a septic system on a property within the boundaries of Charlemont, Massachusetts must first seek a permit from the Board of Health, such request shall include:

- the permit fee (\$80), includes perc test.
- additionally may be required prior to BOH approval for installation:
 - an application for disposal works construction permit completed by the register sanitarian or professional engineer.
 - a form () requesting a/ any variance to the BOH
 - a septic plan prepared, stamped and signed by a register sanitarian or professional engineer in accordance with 310 CMR 15.00.
 - plan shall include distances to the current or proposed well(s) on your lot and your neighbors/ abutters properties within 150 feet.
 - plan shall include the map/ lot number for your property.
 - a final inspection prior to covering the system
 - an "As built" plan prepared by the RS or PE prior to Certificate of Compliance being issued.
- systems where design flows or water uses exceed 2000 gallons per day require the septic plans to be prepared/ reviewed, stamped and signed by a professional engineer.

Title 5 Inspection

Any person or entity owning or operating a facility on which an on-site subsurface sewage treatment and disposal system is shall be responsible for the inspection and maintenance of, and any necessary upgrades to, the system.

- the provisions of 310 CMR 15.303 and 15.304 represent an initial effort to identify and upgrade those failed systems which pose the greatest risk to public health and safety and to the waters of the Commonwealth.
- a Title V inspection is required at the time of transfer of the property, with exceptions, see 310 CMR 15.301 (2).
- a Title V inspection shall be performed at or within two years prior to the time of transfer of title to the property, with exceptions, see 310 CMR 15.301 (1).
- if weather conditions preclude inspection at the time of transfer, the inspection may be completed as soon as weather permits, but in no event later than six months after the transfer.
- the Title V inspection shall be performed prior to any change in the type of establishment or increase in design flow, or to any expansion of use of the facility served for which a building permit or occupancy permit from the local building inspector is required.

Day Care Facility

Any person or entity which operates a "day care center" for children serving meals to 13 or more people per day shall be required to be licensed by the Board of Health. Licensing shall include a food and facility license/ permit.

- additionally requires semi-annual inspection(s).

Person or Entity

"Person" includes an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by the court or otherwise, or any combination of individuals acting as a unit.

Inn

A building or structure which is operated by a person or entity for the purposes of providing sleeping and living accommodations and meals to the public.

- **are licensed each year by the Board of Selectman as an Inn.**
- additionally requires an annual inspection by the BOH.

CHARLEMONT BOARD OF HEALTH FEE SCHEDULE

Effective as of 8/31/2005

Permits

Food Establishments (annual)~ [Includes: restaurants, inns, Delicatessens, coffee shops, convenience stores, cafes, retail food establishments, caterers, bakeries, clubs, societies]

Inspections/Fees

\$150. **\$70/hr** return inspection**

Temporary Food Permits one day*	\$60.	
Additional days	\$5. each day up to 14 continuous days	
Seasonal Food Permit (nine months maximum)	\$100.	
Pre-packaged Food Permit (for sale of pre-packaged food only)	\$50. One inspection only, \$70/hr return Inspection	
Late Renewal of Annual food permit payment for inspection	\$50. per month.	
Milk Dealers*	\$25.	“
Bed and Breakfast*	\$100.	\$70/hr for return inspection
Recreational camps/overnight camps*	\$70.	“
Cabins, Motels, lodging houses, Trailer Coach Parks*	\$80.	“
Solid Waste Hauler	\$200.	
Septic Hauler	\$200.	
Septic Installer	\$100.	
New Septic Installation (including perc test)	\$230.	\$70/hr after 2 hours
Repair Septic Installation (including perc test)	\$80.	“
Title V Inspection	\$80. (inc. two hours)	“
Well permit	\$50.	“
Residential Perc test (includes two hours)	\$80.	“
Commercial Perc Test (includes two hours)	\$130.	“
Septic Final Inspection		\$70/hour after 1 hour
Sani Can	\$25. per event	
Massage Therapy Practice (annual)*	\$80.	\$70/hr for return inspection
Temporary Massage Permit*	\$30. per day	“ “ “
Body Piercing/Tattoo	\$80.	“ “ “
Family Cemeteries	\$25.	“ “ “
Children's camps	\$10.	“ “ “
Pools	\$75.	“ “ “
Collection Services Fee		\$100/hr
Housing Re-inspection for second or subsequent inspections		\$70/hr
Late Fee for inspection fee payment		\$50/month
Court Appearances (when inspector shows for court but defendant does not)		\$150 per nonappearance
Civil Processing Fee		\$50. in state \$100. out of state

* includes one inspection **billed by the hour