

Buckland Board of Health
 Meeting Minutes
 May 19, 2020 6:30 p.m.
 Zoom Meeting

AGENDA

1. Open the meeting.
2. MTRS graduation planning - Marisa Mendonsa
3. Health Agent report - Randy or Lisa Danek Burke
4. Open burning in the village - Janet Sinclair
5. COVID-19/BOH Response: information and updates.
 1. Cases in Buckland - update
 2. Face covering order - enforcement and fine schedule.
 3. Tag sales - guidance?
 4. Town restroom facilities - update
 5. Planning for re-opening: general enforcement issues, businesses, Library, Town Meeting, and Election
 6. Fall flu clinic strategies
 7. Other as needed.
6. Review minutes of previous meeting(s) and approve.
7. Review/process mail - Marti or Terry will collect from Town Hall.
8. Any other items not reasonably anticipated by Chairman 48 hours prior to meeting.
9. Public comment.
10. Adjourn the meeting.

PARTICIPANTS IN ZOOM MEETING/ATTENDEES

Richard Warner - BOH Chairman
 Terry Estes - BOH Member
 Marti Taft-Ferguson - BOH Member
 Randy Crochier - Health Agent
 Lisa Danek Burke - Health Agent
 Herb Guyette - Fire Chief, Buckland and Shelburne Districts
 Marisa Mendonsa - MTRS Principal
 Madeline Liebling - Resident
 Mary Bolduc - Boards' Clerk

MEETING

1. Open the meeting - Meeting opened at 6:34 p.m. It was announced by Marti that the meeting was being recorded. All participants were muted by the host (Marti) and were instructed to raise their hand to be recognized (and un-muted).
2. MTRS graduation planning; Marisa Mendonsa -
 1. Randy announced that DPH will be issuing graduation guidelines within the week.
 2. There will be no in person graduation exercises until guidance is received from FRGOG and BOH.
 3. Marisa Mendonsa presented an overview of proposed MTRS graduation format.
 4. Randy stated he would probably be in agreement with the basics of graduation plan, but did not yet want to commit. This was followed by a group discussion on graduation guidelines, both state and local. Can view plans, then tweak to confirm compliance with state mandates.
 5. Marti expressed concerns if graduation had to be held in auditorium due to adequate airflow/air exchange. She would prefer a rain date for outdoor exercises.
 6. Randy questioned the process of taking temperatures before entering auditorium. Discussion followed regarding where, when, and how temperatures would be taken (at home? at graduation?). Rich Warner said that with all participants wearing masks and observing proper distancing, he was comfortable with temperatures being taken at home.
 7. Lisa added that protocols for outdoor exercises are clearer than those for indoors.
 8. Ms. Mendonsa explained the flow of parents, social distancing in parking lot, lobby, and entering auditorium or gym (alternate location).
 9. Further Board discussion on masks, particularly by person announcing graduates, distancing on stage, etc.
 10. Rich asked Board members their response to MTRS guidelines. Graduation plans are acceptable with the provision they may be edited by Randy if necessary. Also, Lisa will be present since she is the parent of a graduate, so will be able to observe first hand if all protocols are being followed.
3. Health Agent report, Randy or Lisa Danek Burke -
 1. Buckland has been relatively quiet, but Randy anticipates there will be complaints and questions as state opens up.
 2. Currently waiting on guidelines on Rec camps. Randy cannot inspect yet as he has no specific guidance.
 3. Waiting to see how scheduling of Title 5 inspections is impacted as state opens up.
 4. Board discussion on various local camps, residential vs day camps.
 5. Lisa wants data sheets from Marti and Terry for Vacant and Abandoned properties; she is trying to capture all information. She is going to reach out to other town boards and committees to determine if they want participation/input on the matter of vacant and abandoned housing. Lisa is communicating with state AG's office to organize a remote training.
4. Open burning in the village; Janet Sinclair -

1. Janet Sinclair was unable to attend. Madeline Liebling read a statement submitted by Janet, then proceeded to represent that position regarding open burning in the village in Janet's place.
2. Herb Guyette had sent a letter to BOH members with open burning laws attachment. In the letter, and during the meeting, he requested that the BOH clearly define what constitutes a nuisance burn. Herb wants specific guidelines so it can be determined who is responsible for a given situation, the BOH or the fire department.
3. Herb described the financial drain of each call to which the fire department must respond; \$100/hour per truck, and \$16.75/hour for each responder. He is concerned that the fire department budget will be depleted by repeated calls. There is no option for his department to not respond; if they are called, they must go.
4. Madeline requested that all Board members go on record as to whether or not they agree that burning causes harm and is a health hazard. Randy replied that he would read more research before responding and recommended that Board members not go on record.
5. Madeline stated that even with a clean burn, smoke odor is still an issue. She asked what constitutes a "clean burn". She clarified that she is not addressing charcoal or gas fires for barbecuing, but wood fires not for the purpose of cooking, such as fire pits, etc. Rich Warner stated that Board relies on MGL, and that to constitute a nuisance, the situation must meet the standard of the law, not the perception of the complainant. The Board will, however, investigate all complaints.
6. Madeline referred to federal burn laws, but Herb explained that MGL and the federal law to which she referred are one and the same, a copy of which had been forwarded to Board members. (Part I, Title VII, Chapter 48, Section 13).
7. Madeline questioned if a BOH member would come into apartments in her building to measure PM2.5. Rich responded that is very difficult to do and cited public schools in Vermont heated with outdoor wood burners as an example; there have been no air quality studies/data for the children in those schools. Madeline responded that there is a \$100 instrument available to conduct such testing. Rich would like to see it and all accompanying literature.
8. Terry referred to Northampton and the need for an opacity expert to measure air/smoke opacity to determine if burn is compliant with their regulations. Difficult to enforce due to scarcity of opacity experts.
9. Herb reiterated that he wants clear, specific regulations set forth by BOH, with no gray areas regarding what does or does not constitute a nuisance burn.
10. Rich stated that BOH would draft reasonable guidelines.
5. COVID-19/BOH Response: information and updates -
 1. Cases in Buckland, update -
 1. One new positive (a-symptomatic) in Greenfield resulting in five quarantines.
 2. One in Apple Valley, no one else in household and no contacts.
 3. New case in Buckland, self identified on Facebook.
 4. Randy advised that if quarantine violations are suspected, call the police.
 2. Face covering order, enforcement and fine schedule -

1. Enforcement given to local BOH. Business owners are first line of defense, backed up by Board of Health, followed by police as BOH agents.
2. Marti screen shared a ticketing document. Chief Hicks wants a fine schedule from the BOH, specific but with room for discretion. Randy stated that police have discretion to give warning or fine.
3. Terry questioned need of a mask on public sidewalk. Randy said that people must be six feet apart, so if distance is honored outside, no mask is required.
4. Board discussion on various scenarios such as jogging. Board members have received complaints citing perceived mask violations. Education is best tool to ease anxiety and confusion over masking and other COVID related protocols.
5. Lisa suggested a tiered format for fines. It was voted unanimously that the schedule would be:
 1. First offense - Warning
 2. Second offense - \$100
 3. Third offense - \$200
 4. Fourth offense - \$300, and with the understanding that the police have discretion.
3. Tag sales - guidance?
 1. Randy sent out information to area towns and solicited feedback. To date, he has no responses.
 2. Lisa forwarded Randy a Facebook link regarding Greenfield's approach to addressing tag sales.
 3. Greenfield Recorder has been receiving requests for tag sale ads, so reached out to towns.
 4. Concern was expressed that a tag sale may violate the 10 person limit to a gathering, and present a situation that could also violate social distancing.
 5. Randy shared the Greenfield Mayor's page regarding tag sale regulations. Terry suggested that Buckland make copies of Greenfield regulations (with adjustments to specify Town of Buckland) and post them. Rich added that BOH members could have copies of tag sale guidelines in their vehicles to pass out if necessary.
 6. Marti suggested that the Recorder publish tag sale regulations either on same page as tag sale ads, or on front page.
4. Town rest room facilities, update -
 1. Due to hand sanitizer being stolen from porta-pottie, a hand washing station was installed beside it.
 2. Marti is going to try to get into town on days the facilities are not serviced and replenish hand soap. She is concerned that standards are not being met. Lisa has not read any regulations for portable toilet facilities downtown, only protocols for camps, etc.
 3. Board discussion on cleaning the facilities, particularly frequency. Marti suggested a bungee cord to keep door ajar when not in use to maximize airflow. Randy responded that there is sufficient airflow underneath and above on the

toilet structure. He and Lisa advised against attempts to keep the door open, citing the possibility of the door being ripped off as one concern.

4. Randy pointed out that porta-potties were not put downtown to attract tourists, but because they are already here or coming.
5. Planning for re-opening: general enforcement issues, businesses, Library, Town Meeting & Election -
 1. Randy and Lisa have scanned or read most documents from State. Hardest to digest are those for manufacturing.
 2. At last Task Force meeting, there was a discussion on town businesses. Must obtain a list of all businesses in Buckland so they may be given an informational page with links to helpful sites. Janice Purington or Pam Guyette may have list of businesses.
 3. Randy has sent information to those needing food permits.
 4. Terry mentioned one should go to Lamson building since it houses several businesses.. Also, upstairs over McCuskers, those businesses must follow regulations for office space(s).
 5. Rich suggested voluntary compliance. No documentation need be sent in to BOH, but must be on hand on location if requested.
 6. Outdoor food service MAY be included in Phase 2.
 7. Board made list of Buckland businesses, to be completed/finalized when they consult with information from town clerk and/or assessors' office.
 8. Buckland has some money to be given to qualifying small businesses in small "chunks". Lisa asked what are qualifications, specifics, and guidelines for distributing money. Must confirm.
 9. Buckland Library is open for curbside service.
 10. BOH must be ready to advise regarding town meeting and election. Annual Town Meeting is slated for late June in parking lot of MTRS. Voting by mail is encouraged for elections.
6. Fall flu clinic strategies -
 1. Holding clinic in gym will most likely not be an option this year.
 2. Deerfield has good drive-thru vaccination process/protocol to model after.
 3. Regarding drive-thru scenario, concern was expressed over keeping people in cars for 10 minutes post vaccination.
 4. MAPHCO is pushing DPH for free flu vaccine.
 5. Randy asked Rich about availability of vaccine part way through flu season. Rich responded that it has not been a problem for last couple of years.
 6. Town Hall is having pass-thru windows installed in doors to protect employees.
 7. Board discussion on how to make town administrator's office safer. Various suggestions were offered. Randy is going to send photos of method used in Gill Town Hall, a moveable cart with plexiglass barrier.
7. Janice Sorenson is seeking to fast track composting toilets being legal in Massachusetts. Currently not allowed by DPH. Board discussion on function/process of composting toilets. Randy advised that a separate structure for a

composting toilet (such as a composting outhouse) does not include bathing facilities which is a B and B requirement.

6. Review minutes of previous meeting(s) and approve - Members reviewed minutes for April 21 and May 5, 2020 meetings. Rich moved to accept those for May 5, seconded by Terry. Vote to approve was unanimous. Terry moved to accept minutes of April 21, 2020, seconded by Rich. Vote to approve was unanimous.
7. Review/process mail; Marti or Terry will collect from Town Hall - Included in BOH mail was:
 1. Copy of a ZBA application given to BOH, but meeting for that purpose has been postponed.
 2. Certified letter regarding Pan Am Railways spraying.
 3. A stack of inspection forms to be filed, Title 5, etc.
 4. Information on feral cat on State Street. Will be forwarded to animal control officer.
8. Any other items not reasonably anticipated by Chairman 48 hours prior to meeting - N/A
9. Public comment - N/A
10. 10 Adjourn the meeting - Meeting adjourned at 8:53 p.m.

Respectfully submitted by Mary L. Bolduc, Boards' Clerk, June 2, 2020

Approved by:

Jayla Este 7/15/2020
W. Kelly 07-15-20
W. Van 7/15/20



Shelburne Falls Fire-Rescue-EMS
121 State St
Shelburne Falls MA, 01370-1017
413 625-6734 fax 413 625-6718



May 18, 2020

Dear Buckland Board of Health members,

As the Fire Chief for the Shelburne Falls and Buckland Fire Districts, I am requesting clarity on a current issue in the downtown area. On three separate occasions this year and many additional instances over the past few years, backyard fires have been called in as illegal burns. When these are called in, a response from the fire department has to occur, and these requests do not go without a large cost to the department in the form of time and money (\$100 per hour per truck responding and \$16.75 per hour per fire fighter responding).

When responding to these calls, fire personnel have found most of these backyard fires to be within the regulations of NFPA 1 2015 Chapter 10 s10, 527CMR 1.00 s.10.10 and 310 CMR 7.07. Very few have been illegal in nature, and have not resulted in fines being levied to the homeowner or resident. Tying up the departments' limited resources to respond to these calls is proving to be an inconvenience as well.

My request is that the Board of Health decide, in writing, on what the Board's criteria of a nuisance fire is given the fact that outdoor, recreational fires are allowable per NFPA1 2015 Chapter 10, Subsection 10. Should these outside fires be deemed a nuisance by the Board, in accordance with (their laws) M.G.L Chapter 111 sec 31, 31C and 122. Any further actions or fines relative to this would be the responsibility of the Board of Health to oversee since these recreational fires are considered allowable per our NFPA guidelines. We need to outline protocol going forward regarding calls made to Shelburne Control reporting outside fires.

As we move into warmer weather with windows being open, we will be seeing an increase in calls of this nature. The department needs to have the Board's written decision as soon as possible so it is clear on how to handle open burning calls.

Thank you in advance for your attention to this matter.

Sincerely,

Herbert Guyette
Fire Chief

Buckland and Shelburne Falls Fire Districts

10.6 Reporting of Fires and Other Emergencies.**10.6.1 Fire Reporting.**

10.6.1.1 The person discovering any unwanted fire, regardless of magnitude, shall immediately notify the fire department.

10.6.1.2 Facilities that have established on-premises firefighting organizations and have coordinated and arranged procedures approved by the AHJ shall not need to notify the fire department.

10.6.1.3* The owner, manager, occupant, or any person in control of such building or premises, upon discovery of an unwanted fire or evidence of a previous unwanted fire that had apparently been extinguished, shall immediately notify the fire department.

10.6.1.4 Persons shall not make, issue, post, or maintain any regulation or order, written or verbal, that would require any person to take any unnecessary delaying action prior to reporting a fire to the fire department.

10.6.2 ~~Persons shall not deliberately or maliciously turn in an alarm of fire when in fact that person knows that no fire exists.~~

10.6.3 Notification of unauthorized discharge of hazardous materials shall be in accordance with Chapter 60.

10.6.4 ~~Any person who willfully makes any false, fraudulent, misleading, or unfounded report or statement or willfully misrepresents any fact with the intention of misleading any fire department personnel or who interferes with the operation of the fire department shall be in violation of this Code.~~

10.7 Tampering with Fire Safety Equipment. See M.G.L. c. 266 and M.G.L. c. 148 § 27A.

10.7.1 ~~Persons shall not render any portable or fixed fire extinguishing system or device or any fire warning system or device inoperative or inaccessible.~~

10.7.1.1 ~~As necessary during emergencies, maintenance, drills, prescribed testing, alterations, or renovations, portable or fixed fire extinguishing systems or devices or any fire warning system or device shall be permitted to be made inoperative or inaccessible.~~

10.7.2 ~~Persons shall not render a fire protection system or device inoperative during an emergency unless by direction of the incident commander.~~

10.7.3 ~~Persons, except a person authorized by the AHJ, shall not remove, unlock, destroy, or tamper with in any manner any locked gate, door, or barricade; chain; enclosure; sign; tag; or seal that has been required by the AHJ pursuant to this Code.~~

10.8 Emergency Action Plans.

10.8.1 **Where required.** Emergency action plans shall be provided for high-rise, health care, ambulatory health care, residential board and care, assembly, day care centers, special amusement buildings, hotels and dormitories, housing for the elderly for 6 or more dwelling units, detention and correctional occupancies, educational, bulk merchandising retail buildings, underground and windowless structures, facilities storing or handling materials covered by Chapter 60, or where required by the AHJ.

10.8.2 Plan Requirements.

10.8.2.1* Emergency plans shall include the following:

- (1) Procedures for reporting of emergencies
- (2) Occupant and staff response to emergencies
- (3) *Evacuation, relocation and shelter-in-place procedures appropriate to the building, its occupancy, emergencies, and hazards

(4) Appropriateness of the use of elevators

(5) Design and conduct of fire drills

(6) Type and coverage of building fire protection systems

(7) Other items required by the AHJ [101: 4.8.2.1]

10.8.2.2 Emergency action plans shall be submitted to the AHJ for review when required by the AHJ.

10.8.2.3* Emergency action plans shall be reviewed and updated as required by the AHJ. [101: 4.8.2.3]

10.9 Smoking.

10.9.1 Where smoking is considered a fire hazard, the AHJ shall be authorized to order the owner in writing to post "No Smoking" signs in conspicuous, designated locations where smoking is prohibited.

10.9.2 In areas where smoking is permitted, noncombustible ashtrays shall be provided.

10.9.3 Removal or destruction of any required "No Smoking" sign shall be prohibited.

10.9.4 Smoking or depositing any lighted or smoldering substance in a place where required "No Smoking" signs are posted shall be prohibited.

10.10 Open Flames, Candles, Open and Outdoor Fires and Incinerators.

10.10.1 Permits, where required, shall comply with Section 1.12.

10.10.1.1 ~~Permits shall not be required. Fires for cooking and recreational purposes shall comply with the provisions of M.G.L. c. 48 § 13 and the rules and regulations of the State Forester and regulations of the Department of Environmental Protection.~~

10.10.1.2 ~~Where burning is conducted on public property or the property of someone other than the permit applicant, the permit applicant shall demonstrate that permission has been obtained by the appropriate government agency, the owner, or the owner's authorized agent.~~

10.10.1.3 ~~When limits for atmospheric conditions or hours restrict burning, such limits shall be designated in the permit restrictions.~~

10.10.1.4 ~~Instructions or stipulations of permit shall be followed.~~

10.10.2 The AHJ shall have the authority to prohibit any or all open flames, candles, and open, recreational, and cooking fires or other sources of ignition, or establish special regulations on the use of any form of fire or smoking material where circumstances make such conditions hazardous.

10.10.3 Outdoor Fires.

10.10.3.1 ~~Outdoor fires shall not be built, ignited, or maintained in or upon hazardous fire areas, except by permit from comply with the AHJ provisions of M.G.L. c. 48 § 13 and the rules and regulations of the State Forester, and regulations of the Department of Environmental Protection. See 310 CMR 7.07.~~

10.10.3.2 ~~Permanent barbecues, portable barbecues, outdoor fireplaces, or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.~~

10.10.4 Open Fires.

10.10.4.1 ~~Permitted open fires shall be located not less than 50 ft (15 m) from any structure.~~

10.10.4.1.1 Bonfires and the Burning of Christmas Trees. Permits where required, for bonfires and the burning of Christmas trees shall comply with Section 1.12.

10.10.4.1.1.1 Ceremonial Bonfires. The city council of a city with the approval of its mayor, or the board of selectmen or town council of a town, may authorize the fire department of such city or town to issue not more than one permit in any one year for a ceremonial bonfire. Such bonfires shall mark the observance of a significant municipal, state or national event, and such ceremonial bonfire shall be under the continuous supervision of the fire department. Only wood which has not been painted, impregnated, or otherwise treated with any foreign substance shall be permitted to burn in ceremonial bonfires. No bonfire shall burn for more than 12 hours. (M.G.L. c. 111, § 142H.)

10.10.4.1.1.2 Bonfires from July 2 to July 6. Any civic, fraternal, veteran, community or business organization may build and ignite bonfires under the supervision and control of the fire department of the city or town in which such burning takes place during the period from July 2 to July 6. (M.G.L. c. 111, § 142I.)

10.10.4.1.1.3 Burning of Christmas Trees. Any person may burn Christmas trees during the period from December 26 to January 7, provided that such burning is under the supervision and control of the fire department. (M.G.L. c. 111, § 142G.)

10.10.4.1.1.4 Burning hours shall be prescribed by the AHJ.

10.10.4.2 Burning hours shall be prescribed by the AHJ.

10.10.4.3 Recreational fires shall not be located within 25 ft (7.6 m) of a structure or combustible material unless contained in an approved manner.

10.10.4.4 Conditions that could cause a fire to spread to within 25 ft (7.6 m) of a structure shall be eliminated prior to ignition.

10.10.5 Fire Attendant.

10.10.5.1 Open, recreational, and cooking fires shall be constantly attended by a competent person until such fire is extinguished.

10.10.5.2 This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.

10.10.6 Appliances-Cooking Equipment.

10.10.6.1 For other than one and two family dwellings, no hibachi, grill, or other similar devices used for cooking, heating, or any other purpose shall be used or kindled on any balcony, under any overhanging portion, or within 10 ft (3 m) of any structure. **General.** Cooking appliances shall be kept clean during and cleaned after each use. Cooking appliances shall never be left unattended after the cooking appliance is kindled. Cooking appliances shall be stored only after the appliance is cleaned; the appliance is cool to the human touch and; the fuel is disconnected and removed from the appliance. Cooking appliances shall not be altered, used, kindled, placed, or stored in a manner that is not established by the manufacturer's instructions of the appliance and its equipment.

10.10.6.2 For other than one and two family dwellings, no hibachi, grill, or other similar devices used for cooking shall be stored on a balcony. **Terms.** As used in Chapter 10, the enclosed terms shall have the following meaning assigned to them.

(1) Appliance (cooking). Utilization equipment, generally other than industrial, that is normally built in standardized sizes or types and is used, installed or connected as a unit to perform one or more functions such as grills, ranges, cook top units, wall ovens, and chimineas or similar such appliances.

(2) Balcony. A structure attached to a building with no exterior stairs other than through the attached building.

(3) Deck, (including porches, and patios). A structure attached to a building where constructed above grade has exterior stairs extending to grade.

(4) Equipment (Cooking). The component of an appliance, such as the hose, burner, heating element, electronic controls, igniters, heat exchanger, container or regulator that is designed specifically for the purpose and constructed with approved safety standards and tested by a recognized product testing agency. See Chapter 3, for the term Listed 3.2.6*.

(5) Grade (as it applies to balconies and decks). On earth; or on blocks, slab or of other approved material placed on earth and elevated not greater than 30 inches from earth.

(6) Permanent. Fastened in place, and cannot be easily moved without requiring the disconnection of fasteners, piping, and fittings.

(7) Solid Fuel. Includes wood, charcoal, pellet fuels, and any other non-gaseous fuel but not including fuel generation or co-generation of electric energy.

10.10.6.3 Solid Fuel, Gaseous Fuel, and Electric Cooking and Heating Appliances Use and Storage on Balconies and Decks or under Overhangs and Structures.

10.10.6.3.1 All cooking and heating appliances shall be permitted to be used, kindled, or stored on a balcony or deck unless specifically prohibited or restricted below.

10.10.6.3.2 No solid fuel cooking and heating appliances shall be permitted to be used, kindled, or stored on any balcony.

10.10.6.3.3 No gaseous fuel cooking and heating appliances shall be used, kindled, or stored on any balcony located above grade, unless permitted to be permanently installed pursuant to its equipment listings.

10.10.6.3.4 No cooking or heating appliances shall be used, installed, kindled or stored on any fire escape balcony.

10.10.6.3.5 No cooking or heating appliances shall be used, installed, kindled or stored on any balcony or deck where the balcony or deck is enclosed by a roof, walls, other than the wall of the attached building, or any covering that would prevent air circulation, unless a sprinkler system is installed in accordance with the *Building Code*, or such appliance is permitted by the manufacturer's instructions and equipment listings.

10.10.6.3.6 No equipment of any cooking and heating appliances shall be permitted to be used or stored under any overhang; less than 10ft.(3m) from a building; unless a sprinkler system is installed in accordance with the *Building Code*; or it is permitted by the manufacturer's instructions and equipment listings. The storage of any cooking or heating appliances under the overhang or 10ft (3m) from a building shall be permitted only when its fuel is not present within or near any cooking or heating appliance, unless such appliance is permanently installed.

10.10.6.3.7 All appliances that are permanently installed shall be approved by the specialized code official.

10.10.6.4 LP-Gas Containers (cylinders) 1-lb or Greater, Use, Placement at Dwellings.

10.10.6.4.1 Containers shall only be transported using exterior means independent from the attached building.

- (6) From Non-stationary Source Diesel Engines. No person shall cause, suffer, allow, or permit excessive emission of visible air contaminants, other than water, from a diesel engine.

7.07: U Open Burning

- (1) No person shall cause, suffer, allow or permit the open burning of any combustible material.

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

7.07: continued

- (2) 310 CMR 7.07(1) shall not apply to:
- (a) open burning for the purpose of combating or backfiring an existing fire by persons affiliated with an official fire fighting agency;
 - (b) open burning conducted primarily for cooking purposes, or
 - (c) open burning related to the operation of devices such as blowtorches and welding torches, for which no alternative source of heat can be used, provided that such devices do not cause a condition of air pollution.
- (3) Except during periods of adverse meteorological conditions as may be determined by the Department when direct or public notice thereof has been made by the Department through the news media, 310 CMR 7.07(1) shall not apply to open burning conducted for:
- (a) training or research in fire protection or prevention with specific approval by the Department;
 - (b) activities associated with the normal pursuit of agriculture which have been determined by the Department as necessary and which include but are not limited to, open burning of blueberry patches for pruning purposes, dead raspberry stalks, fruit tree prunings, and infected beehives for disease control;
 - (c) open burning of brush and trees resulting from agricultural land clearing operations;

310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

7.07: continued

(d) the disposal of fungus-infected elm wood provided that no suitable alternative method of disposal is available;

(e) the disposal of brush, cane, driftwood, and forestry debris excluding grass, hay, leaves, and stumps from January 15th to May 1st of each year. All such open burning shall be conducted:

1. on land proximate to the place of generation,
2. at a location greater than 75 feet from any dwelling, and
3. between ten o'clock A.M. and four o'clock P.M.

No such open burning shall apply to commercial or institutional land clearing for non-agricultural purposes.

Open burning under 310 CMR 7.07(3)(e) shall not be permitted in the Cities and Towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Chicopee, Everett, Fall River, Holyoke, Lawrence, Lowell, Malden, Medford, New Bedford, Newton, Somerville, Springfield, Waltham, Watertown, West Springfield, and Worcester, or where the Department has notified a city or town that:

1. open burning under this provision may cause or contribute to non-attainment of federal or state ambient air quality standards for particulate matter,
2. open burning under this provision may cause or contribute to a condition of air pollution, or
3. open burning under this provision is not permitted due to continued violations of the provisions for the proper conduct of such open burning. (Such action shall be taken only after said city or town has been given written notification of such violations and has in the opinion of the Department failed to take appropriate actions to prevent the continuance of such violations.)

Upon request of the Department the permitting authority of any City or Town shall notify the Department of the number of permits issued during any burning period.

(f) the disposal of combustible material with the approval of the Department and after demonstration to the satisfaction of the Department that no alternative suitable method of disposal is available;

(g) open burning as described in 310 CMR 7.07(3)(a) through 310 CMR 7.07(3)(f) must be conducted:

1. during periods of good atmospheric ventilation,
2. without causing a nuisance,
3. with smoke minimizing starters if starters or starting aids are used, and
4. under the provisions of a properly executed permit issued under the provisions of M.G.L. c. 48, § 13*

(4) Except as may be incidental to compliance with the provisions contained in 310 CMR 7.07(2) and 310 CMR 7.07(3) no person shall stack, place, or store combustible material in such manner as to cause or allow presumption by the Department that such material may be subject to reduction by open burning.

(5) Notwithstanding the provisions of 310 CMR 7.07(3), no person shall cause, suffer, allow or permit open burning at any refuse disposal facility other than an incinerator as described in M.G.L. c. 111, § 150A.

(6) 310 CMR 7.07(1) through 7.07(5) are subject to the enforcement provisions specified in 310 CMR 7.52.

* M.G.L. c. 48, § 13 provides in part:

1. such permits may not be granted for more than two days from the date of issue, and
2. a written record must be maintained for each permit including the date of permit issuance, name and address of the person receiving the permit including the location and type of materials to be burned, and
3. such records must be available for public inspection.

Part I ADMINISTRATION OF THE GOVERNMENT

Title VII CITIES, TOWNS AND DISTRICTS

Chapter 48 FIRES, FIRE DEPARTMENTS AND FIRE DISTRICTS

Section 13 SETTING OPEN AIR FIRES; CONDITIONS AND
RESTRICTIONS; PENALTY FOR VIOLATION

Section 13. No person shall set, maintain or increase a fire in the open air at any time except by permission, covering a period not exceeding two days from the date thereof, granted by the forest warden or chief of the fire department in cities and towns, or, in cities having such an official, the fire commissioner; provided, that if such permission is not in writing, a written record of the granting thereof, setting forth the date upon which permission was granted, the dates covered by such permission, the name and address of the person to whom, and the manner in which, such permission was granted, and any other necessary information relative thereto, shall be made and kept by the forest warden, chief or fire commissioner, as the case may be, and shall be open to public inspection; and provided further, that persons eighteen years of age or older may, without a permit, set, maintain or increase a reasonable fire for the purpose of cooking, upon sandy

or gravelly land free from living or dead vegetation or upon sandy or rocky beaches bordering on tidewater, if the fire is enclosed within rocks, metal or other nonflammable material. The forest warden, chief or fire commissioner, as the case may be, may make it a condition for granting a permit that any burning shall be done only after four o'clock (eastern standard time) in the afternoon, and in the case of a permit for a demolition burning may make it a condition for granting such permit that sufficient fire department personnel, to be assigned by proper authority at the expense of the person seeking such permit, shall be present at such burning to control the fire until it is entirely extinguished. Any permit granted under this section may be revoked at any time. The forester may make rules and regulations relating to the granting and revocation of such permits binding throughout the commonwealth. Such rules and regulations shall take effect subject to section thirty-seven of chapter thirty, when approved by the governor and council. The forest wardens in towns and officials performing the duties of forest wardens in cities shall cause public notice to be given of the provisions of this section and shall enforce the same. Whoever violates any provision of this section shall be punished by a fine of not more than \$500 plus the cost of suppression or by imprisonment for not more than one month or both. In this section, a demolition burning shall mean a fire set for the purpose of burning debris resulting from the demolition of buildings.