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Private Well Regulation

I. PURPOSE

The purpose of this regulation is to provide for the protection of the public health, safety, welfare and the environment by, among other things, requiring the proper siting, constructing and testing of private wells.

II. AUTHORITY

These regulations are adopted by the Foxborough Board of Health, pursuant to its authority under Massachusetts General Laws, Chapter 111, section 31. These regulations supersede all previous Regulations for Private Wells adopted by the Foxborough Board of Health.

III. DEFINITIONS

Abandoned Water Well: a well that meets any of the following criteria; (1) construction was terminated prior to completion of the well, (2) the well owner has notified the local Board of Health that use of the well has been permanently discontinued, (3) the well has been out of service for at least three years, (4) the well is a potential hazard to public health or safety and the situation cannot be corrected, (5) the well is in such a state of disrepair that its continued use is impractical, or (6) the well has the potential for transmitting contaminants from the land surface into an aquifer or from one aquifer to another and the situation cannot be corrected.

Agent: Any person designated and authorized by the Board to implement, in whole or part, these regulations. To the extent provided by the Board, the agent shall have all the authority of the Board and shall be directly responsible to the Board and under its direction and control.

Alter a Well or Well Alteration: Change the structural or hydraulic characteristics of a well including but not limited to deepening, decommissioning, performing Well Yield Enhancement, or performing casing extension, replacement, perforation or repair.

Applicant: Any person who applies to have a private well-constructed.

Aquifer: a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

Artesian Aquifer: an aquifer that is bound above and below by impermeable material or materials or distinctly lower permeability than the aquifer itself. The water in an aquifer confined in this manner will rise in a drilled hole or well casing above the point of initial penetration (above the bottom of the confining, or impermeable, layer overlying the aquifer).

Bentonite: a mixture of swelling clay minerals containing at least eighty-five percent of mineral montmorillonite (predominantly sodium montmorillonite) which meets the specifications of the most recent revision of API Standard 13A.

Bentonite Grout: a mixture of bentonite (API Standard 13A) and water in a ratio of not less than one pound of bentonite per gallon of water.

Board: The Board of Health of Foxborough, Massachusetts or its authorized agents.

Business of Well Drilling: performing for commercial purposes, the activity of Drilling or Altering a Well.

Casing: impervious durable pipe placed in a boring to prevent the walls from caving and to serve as a vertical conduit for water, other fluids, or gases in a well.

Certified Laboratory: a laboratory certified by the Department for the analysis of drinking water and required water quality analytes. Provisional certification is acceptable.

Certified Company: a person authorized by nontransferable Certification with the Department, under 310 CMR 46.00, to engage in the business of Well Drilling and Alteration, determining Well Yield and Pump Installation.

Certified Individual: an individual authorized by nontransferable Certification with the Department to Drill of Alter Wells, as specified in 310 CMR 46.03(3).

Concrete: a mixture consisting of Portland cement (ASTM Standard C150, type I or API Standard 10, Class A), sand, gravel, and water in a proportion of not more than five parts of sand plus gravel to one-part cement, by volume, and not more

than six gallons of water. One-part cement, two parts sand, and three parts gravel are commonly used with up to six gallons of water.

Department: Massachusetts Department of Environmental Protection.

Install a Pump or Pump Installation: Install, replace or alter a pump or any component thereof for a well.

Irrigation well: a well-used for the sole purpose of watering or irrigation. The well shall not be connected at any time to a dwelling or a building unless it meets the requirements of a Private Drinking Water Well and have the Board's written approval.

Neat Cement Grout: a mixture consisting of one bag (94 pounds) of Portland cement (ASTM Standard C 150, Type I or API Standard 10, Class A) to not more than six gallons of clean water. Bentonite (API Standard 13A), up to two percent by weight of cement, shall be added to reduce shrinkage. Other additives, as described in ASTM Standard C494, may be used to increase fluidity and/or control setting time.

Person: any agency or political subdivision of the federal government or the commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee or agent of said person, and any group of said persons.

Private Well: any hole or shaft drilled into the ground to inject or withdraw water, other fluids, or gasses, monitor soil gasses, monitor groundwater levels or water quality, transfer heat, or provide cathodic protection that is not regulated as a public water supply under 310 CMR 22.00.

Private Well Yield: the gallons per minute (gpm) of water that can flow or be withdrawn from a well, at a sustained rate after a minimum of 2 hours if the water level has stabilized (water level does not fluctuate more than 3 inches) for the last 30 minutes of the test.

Pumping (Aquifer) Test: a procedure used to determine the characteristics of a well and adjacent aquifer by installing and operating a pump.

Pump or Pump System: the mechanical equipment or devices used to remove water from a well. For a well with a pitless adapter, the pump system includes all piping and the pitless adapter. For a well with a submersible pump and without a pitless adapter, the pump system includes all piping up to the metering device, or if none,

then up to the main control valve inside the foundation of the structure served by the well. For a well without a submersible pump and without a pitles adapter, the pump system includes all piping up to and including the wellhead. For installation or repair purposes, the pump or pump system includes all piping up to the metering device or, if none, then up to the main control valve inside the foundation of the structure served by the well.

Replace a Pump or Pump Replacement: Install a Pump of the same horsepower as the Pump that was last removed, install any component of a Pump with a component of the same size and capacity as the one that was last removed. Also, removal and replacement of a pump or any component thereof.

Sand Cement Grout: a mixture consisting of Portland cement (ASTM Standard C150, Type I or API Standard 10, Class A), sand, and water in the proportion of one-part cement to three or four parts sand, by volume, and not more than six gallons of water per bag (94 pounds) of cement. Up to five percent, by weight of bentonite (API Standard 13A) shall be added to reduce shrinkage.

Static Water Level: the distance from established ground surface to the stabilized water level in a well which is neither being pumped nor under the influence of pumping.

Structure: a combination of materials assembled at a fixed location to give-support or shelter, such as a building, framework, retaining wall, fence, or the like.

Water Quality Testing: the process of properly collecting a water sample from a private well and submitting it under proper temperatures and chain of custody to a certified Massachusetts Department of Environmental Protection laboratory.

Well: any hole or shaft drilled into the ground to inject or withdraw water, other fluids, or gases, monitor soil gasses, monitor groundwater levels or water quality, transfer heat, or provide cathodic protection.

Wellhead: the above ground component or structure built over a well.

Well Yield Enhancement: a process to increase the production of water and yield by using water under pressure, or another substance the Department has approved for use in the process, to clean our existing fractures in order to all water to flow into the well from other areas.

IV. WELL CONSTRUCTION PERMIT

(1) A Massachusetts Certified Well Driller shall obtain a permit from the Foxborough Health Department prior to the commencement of construction of a private well.

(2) Each permit application to construct a well shall include the following:

(a) the property owner's name and address

(b) the well driller's name and proof of valid Massachusetts certification

(c) a plan prepared by a Massachusetts Engineer or Surveyor with a specified scale, showing the location of the proposed well in relation to existing or proposed above or below ground structures.

(d) a description of prior and current land uses within two-hundred (200) feet of the proposed well location, which represent a potential source of contamination, including but not limited to the following:

1. existing and proposed structures
2. subsurface sewage disposal systems
3. subsurface fuel storage tanks
4. public and private ways
5. utility rights-of-way
6. any other potential sources of pollution.

(e) a permit fee as observed in the most up to date Health Department fee schedule.

(3) The permit shall be on site at all times that work is taking place. Each permit shall expire one (1) year from the date of issuance unless revoked for cause, or extended.

(4) The Health Department may forward well construction applications to the Water Department, Conservation Agent, Building Department, or other authority for comment, if warranted.

V. WATER SUPPLY CERTIFICATES

(1) The issuance of a Potable Water Supply Certificate by the Health Department shall certify that the private well may be used as a drinking water supply. Potable Water Supply Certificate must be issued for the use of a private well prior to the

issuance of an occupancy permit for an existing structure or prior to the issuance of a building permit for new construction which is to be served by the well.

The following shall be submitted to the Health Department to obtain a Water Supply Certificate:

(a) a well construction permit;

(b) a copy of the Well Completion Report as required by MassDEP Well Driller Program regulations (310 CMR 46.00);

(c) a copy of the Pumping Test Report required pursuant to Section VII of these regulations; and,

(d) a copy of the Water Quality Report required pursuant to Section VIII of these regulations.

(2) The issuance of an Irrigation Water Supply Certificate by the Health Department shall certify that the private well may be used as an irrigation water supply. The following shall be submitted to the Health Department to obtain a Water Supply Certificate:

(a) a well construction permit;

(b) a copy of the Well Completion Report as required by MassDEP Well Driller Program regulations (310 CMR 46.00);

(c) a copy of the Water Quality Report, if required pursuant to Section VIII of these regulations.

(3) The issuance of a Geothermal Well Certificate by the Health Department shall certify that the Geothermal well may be used for its intended purpose. The following shall be submitted to the Health Department to obtain a Geothermal Well Certificate:

(a) a well construction permit;

(b) a copy of the Well Completion Report as required by MassDEP Well Driller Program regulations (310 CMR 46.00);

(4) Upon the receipt and review of the above documents, the Health Department shall decide on the application for a Water Supply Certificate. A final decision shall be in writing and shall comprise one of the following actions:

(a) issue a Water Supply Certificate;
(b) deny the applicant a Water Supply Certificate and specify the reasons for the denial;
(c) Issue a conditional Water Supply Certificate with those conditions, which the Health Department deems necessary to ensure fitness, purity and quantity of the water, derived from that private well. These conditions may include, but not be limited to, requiring treatment and/or additional testing of the water.

VI. WELL LOCATION AND USE REQUIREMENTS

(1) In locating a well, the applicant shall identify on a plan all potential sources of contamination, which exist or are proposed within two hundred (200) feet of the site. When possible, the well shall be located upgradient of all potential sources of contamination and shall be as far away from potential sources of contamination as possible, given the layout of the property.

(2) No well shall be permitted for use as a water source unless it meets the following setback requirements:

(a) 10 feet from the property line;

(b) 25 feet from public or private roadway;

(c) 15 feet from right of way;

(d) 50 feet from building sewer line or septic tank;

(e) 100 feet from leaching field or drywell;

(f) 100 feet from stable, barnyard, manure storage;

(g) 250 feet from an underground fuel storage or pesticide tank;

(h) 50 feet from any surface water, including, but not limited to, wetlands

(3) The Health Department reserves the right to impose minimum setback requirements from other potential sources of contamination not listed above. All such additional setback requirements shall be listed, in writing, as a condition of the well construction permit.

(4) Each private well shall be located so that it is accessible for repair, maintenance, testing, and inspection. The well shall be completed in a water

bearing formation that will produce the required volume of water under normal operating conditions.

(5) Water supply lines shall be installed at least ten (10) feet from and eighteen (18) inches above any sewer line. Whenever water supply lines must cross sewer lines, both lines shall be constructed of Class 150 pressure pipe and shall be pressure tested to assure water tightness.

(6) No private well, or its associated distribution system, shall be connected to either the distribution system of a public water supply system or any type of waste distribution system.

(7) In the event, a shared-use well system is established by multiple parties. A shared use agreement must be developed. This agreement should cover permitting responsibilities, maintenance and repair responsibilities, sampling, etc. and should include who will be responsible for paying which costs. You may add other items to the water users' agreement such as, but not limited to, the covenant's purpose, the easement's purpose, etc. if applicable. The developed agreement shall be provided to the Health Department and must be submitted at time of permitting.

VII. WATER QUANTITY REQUIREMENTS

The applicant shall submit a Pumping Test Report to the Health Department for review and approval. The Pumping Test Report shall include the name and address of the well owner, well location, date the pumping test was performed, depth at which the pump was set for the test, static water level immediately before pumping commenced, discharge rate and, if applicable, the time the discharge rate changed, pumping water levels and respective times after pumping commenced, maximum drawdown during the test, duration of the test, including both the pumping time, and the recovery time during which measurements were taken, recovery water levels and respective times after cessation of pumping, and reference point used for all measurements.

In order to demonstrate the capacity of the well to provide the Required Volume of water, a pumping test shall be conducted in the following manner:

(1) the volume of water necessary to support the household's daily needs shall be determined using the following equation: (Number of Bedrooms + 1) x 110 gallons per bedroom x a safety factor of 2 + the well's storage capacity = number of gallons needed daily

(2) the storage capacity of the well shall be determined using the measured static water level and the depth and radius of the drill hole or casing.

Estimate the water storage using information obtained from the Well Completion Report and the following Table:

Diameter of Well in Inches	Gallons of Water		Diameter of Well in Feet	Gallons of Water Per Foot of Water Depth
	Per Foot of Water Depth	Per 100 Feet of Water Depth		
1.5	0.092	9.2	2	23.5
2	0.163	16.3	3	52.9
3	0.367	36.7	4	94.0
4	0.653	65.3	5	146.9
5	1.020	102.0	6	211.5
6	1.469	146.9	7	287.9
8	2.611	261.1	8	376.0
10	4.080	408.0	9	475.9
12	5.876	587.6	10	587.6

To determine the available water in feet, subtract the static water level from the well depth or the pump intake. Multiply the available water in feet times the gallons of water per foot for the well diameter to calculate the number of available gallons held in storage in the borehole (see above Table.)

(3) the Required Volume shall be calculated by adding the volumes of water in (1) and (2). It is this volume of water that must be pumped from the well within a 24-hour period.

The pumping test may be performed at whatever rate is desired. Following the pumping test, the water level in the well must be shown to recover to with eighty-five (85) percent of the pre-pumped static water level within a twenty-four (24) hour period.

VIII. WATER QUALITY TESTING REQUIREMENTS

(1) After the construction of the well has been completed and disinfected, and prior to using it as a private drinking water well, baseline water quality testing shall be conducted.

(2) A water sample shall be collected either after purging three (3) well volumes or following the stabilization of the pH, temperature and specific conductance in the pumped well. The water sample to be tested shall be collected at the pump

discharge or from a disinfected tap in the pump discharge line. In no event shall a water treatment device be installed prior to sampling.

(3) For all drinking water and irrigation wells, water quality testing utilizing the applicable US EPA approved method for drinking water testing, shall be conducted by a Massachusetts or EPA certified laboratory and shall include analysis for the following parameters:

☐ Arsenic	☐ Fluoride	☐ pH
☐ Chloride	☐ Iron	☐ Total Coliform bacteria
☐ Copper	☐ Lead	☐ Nitrate/Nitrite
☐ Hardness	☐ Manganese	☐ E. coli bacteria
☐ Sodium		

(4) In drinking water wells drilled more than 100 feet into bedrock the Board requires that in addition to the parameters listed above, a Gross Alpha Screen and Radon test be performed. If the Gross Alpha screen detects radiation of 15 pCi/L or more, then the water must be analyzed for Uranium concentrations. If the Gross Alpha screen detects radiation of 5 pCi/L or more, then the water must be analyzed for Radium and Uranium concentrations.

(5) In drinking water or irrigation wells drilled downgradient from a hazardous material storage site, known area of a hazardous material release, or other source of contamination the Health Department may require testing for water quality parameters not listed in VIII (3) and (4) for which there is a US EPA or MassDEP approved method for public drinking water testing, shall be conducted by a MassDEP or EPA certified laboratory or any other certification authority approved by MassDEP. This testing may include but is not limited to:

☐ Inorganic Compounds	☐ Volatile Organic Compounds
☐ Synthetic Organic Compounds	

(6) In drinking water and irrigation wells drilled less than 100 feet from a surface water body, septic tank, cesspool, leaching field, or is prone to flooding the Health Department or Board shall require more frequent testing for:

☐ Bacteria	☐ Turbidity

(7) The owner of a rental property with a drinking water well shall make results of all water quality tests available to all tenants of the property and the Health Department. In cases where the well water does not meet the water quality standards outlined above, the Health Department or Board will require the property owner to provide an alternative approved source of drinking water for the tenants, require water treatment, or other suitable remedy.

(8) Before the transfer of title on a property, the property owner which is served by a private well will provide the perspective buyer the most recent water quality report.

(9) The Health Department reserves the right to require retesting of the above parameters, or testing for additional parameters when, in the opinion of the Health Department, it is necessary due to local conditions or for the protection of public health, safety, welfare and the environment. All costs and laboratory arrangements for the water testing are the responsibility of the applicant.

(10) In any case where the Health Department finds that the water quality of a private well does not meet the appropriate standards, it may require additional actions as it deems necessary for the protection of public health, safety or welfare, such as, but not limited to; requiring the property owner to provide an alternative source of drinking water, well alterations, well abandonments, filtration, or other remedy.

IX. WELL CONSTRUCTION REQUIREMENTS

(1) Pursuant to 310 CMR 46.02 (1), no person in the business of digging or drilling shall construct a well unless certified by the MassDEP Well Drillers Program.

(2) Any work involving the connection of the private well to the distribution system of the residence must conform to the local plumbing code. All electrical connections between the well and the pump controls and all piping between the well and the storage and/or pressure tank in the house must be made by a pump installer or certified well driller, including the installation of the pump and appurtenance(s) in the well or house.

(3) A physical connection is not permitted between a private well water supply a public water system.

(4) General Well Design and Construction

(a) All private wells shall be designed and constructed such that:

1. the materials used for the permanent construction are durable in the specific hydrogeologic environment that occurs at the well site

2. no unsealed opening is being left around the well that could conduct surface water or contaminated groundwater vertically to the intake portion of the well or transfer water from one formation to another.

(b) Permanent construction materials shall not leach or contribute toxic substances, taste, odors, or bacterial contamination to the water in the well.

(c) Well construction design shall ensure that surface water does not enter the well through the opening or by seepage through the ground surface.

(d) All water used for drilling, well development, or to mix a drilling fluid shall be obtained from a potable water source, which will not result in contamination of the well or the water bearing zones penetrated by the well.

(e) Water shall be conveyed in clear sanitary containers or water lines and shall be chlorinated to an initial concentration between 50 milligrams per liter (mg/L) and 100 mg/L. All drilling equipment including pumps and down hole tools, shall be cleaned and disinfected prior to drilling each new well or test hole.

(f) All drilling fluids shall be nontoxic. Drilling fluid additives shall be stored in clean containers and shall be free of material that may adversely affect the well, the aquifer, or the quality of the water to be pumped from the well. Surfactants shall be biodegradable. The use of biodegradable organic polymers shall, when possible, be avoided.

(g) All wells, including those that have been hydro-fractured, shall be developed in order to remove fine materials introduced into the pore spaces or fractures during construction. One or more of the following methods shall be used for development: over-pumping, backwashing, surging, jetting, air-lift pumping.

(5) Well casing

(a) Private water supply wells shall be constructed using either steel or thermoplastic well casing. The casing shall be of adequate strength and durability to withstand anticipated formation and hydrostatic pressures, the

forces imposed on it during installation, and the corrosive effects of the local hydrogeologic environment.

(b) All casing used in the construction of private wells shall be in good repair and free from pits, breaks, gouges, deep scratches and other defects.

(c) Upon completion of the installation procedure, the entire length of the casing above the intake shall be watertight.

(d) Well casing shall not be cut off below the land surface unless a pitless adapter or a pitless unit is installed or an abandoned well is being permanently plugged. Well casing terminating above-grade shall extend at least twelve (12) inches above the predetermined ground surface at the wellhead except when the well is located in a floodplain. When a well is located in a floodplain, the well casing shall extend at least two (2) feet above the level of the highest recorded flood. The top of the well casing shall be reasonably smooth and level.

(6) Well screen

(a) A well screen is required for all drilled wells that are completed in unconsolidated formations. All well screens shall be of Grade 304 stainless steel. Wells completed in bedrock do not require a screen unless the bedrock formation is brittle in nature or has a potential for collapse. The well screen aperture openings, screen length, and diameter shall be selected so as not to limit the aquifer's water yielding characteristics while preventing access of soil particles that would detract from well efficiency and yield.

(7) Grouting and sealing

(a) All wells completed with the casing extending above grade shall have a surface seal designed to eliminate the possibility of surface water flowing down the annular space between the well casing and the surrounding backfilled materials. The surface seal shall extend to a depth below the local frost line.

(8) Wellhead completion

(a) All wells shall be equipped with a sanitary seal or watertight cap designed to prevent surface water and foreign matter from entering the well.

(b) All connections to a well casing made below ground shall be protected by either a pitless adapter or a pitless unit that complies with the most recent revision of National Sanitation Foundation Standard Number 56, entitled "Pitless Well Adapters."

(c) Above-grade connections into the top or side of a well casing shall be at least twelve (12) inches above the established ground surface or two (2) feet above the level of the highest known flood, whichever is higher. Above-grade connections shall be sealed so that they are watertight.

(d) The ground immediately surrounding the well casing shall be sloped downward and away from the well in all directions to eliminate the possibility of surface water ponding.

(9) Disinfection

(a) Upon completion of well construction or upon installation of a well pump, the well driller or pump installer shall disinfect the well.

(b) When a well is disinfected, the initial chlorine concentration shall be 100 mg/L throughout the entire water column.

(c) The disinfectant solution shall remain undisturbed in the well for a minimum of two (2) hours. After all the chlorine has been flushed from the water supply system, a water sample may be collected and submitted to a Massachusetts certified laboratory.

(d) Only certified well drillers are authorized to physically alter or repair a well.

X. WATER SUPPLY CERTIFICATE RENEWAL

(1) All Potable Water Supply Certificates shall be renewed every 3 years. Expired Potable Water Supply Certificates shall be renewed within 6 months of the expiration date by providing the following:

(a) Renewal application and appropriate fee.

(b) Water quality testing results pursuant to section VIII of these regulations.

(2) All Irrigation Water Supply Certificates shall be renewed every 5 years. Expired Irrigation Water Supply Certificates shall be renewed within 6 months of the expiration date by providing the following:

(a) Renewal application and appropriate fee.

(b) Water quality testing results pursuant to section VIII of these regulations.

(3) Failure to renew a Potable or Irrigation Water Supply Certificate may result in penalties pursuant to section XIV of this regulation.

(4) Upon transfer of property title with an active Water Supply Certificate, it shall be the owner's responsibility to renew the Water Supply Certificate with the Health Department or decommission the well pursuant to section XI of these regulations.

XI. DECOMMISSIONING REQUIREMENTS

(1) Abandoned wells, test holes, and borings shall be decommissioned so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.

(2) The owner of a private well shall decommission the well if any of the following criteria are met:

(a) Construction of the well is terminated prior to completion of the well.
(b) The well owner notifies the Health Department that the use of the well is to be permanently discontinued.

(c) The well has been out of service for three (3) years or more.

(d) The well is a potential hazard to public health or safety and the situation cannot be corrected due to a lack of water quality or source of contamination, or a lack of water quantity produced by the well, or the well is in a state of disrepair, or other condition.

(3) Only certified well drillers may abandon wells.

(4) Wells shall be plugged with neat cement grout, sand cement grout, concrete, or bentonite grout.

(5) The plugging materials shall be introduced at the bottom of the well or boring and placed progressively upward to a level approximately four (4) feet below the ground surface. Sealing materials shall not be poured from the land surface into the well, borehole, or annular space being sealed.

(6) The well driller shall install a surface seal after the well or boring has been plugged. Before the surface seal is placed, casing remaining in the hole shall be

cut off. The remaining four (4) feet at the top of the well or boring shall then be filled with concrete. The top of the seal shall comprise a concrete slab above the top of the plugged well or boring.

XI. ENFORCEMENT

(1) The Health Department has the authority to investigate suspected or known violations of these regulations and/or violations of any Water Supply Certificate conditions. The Health Department may take actions, as it deems appropriate, within its authority for the protection of public health, safety welfare, or the environment, and to enforce any of the provisions of this regulation.

(2) If any investigation reveals a violation of these regulations or the Water Supply Certificate Conditions, the Health Department or Board may order the private well owner to comply with the violated provision(s), and/or take other action within its authority.

(3) Any Order the Health Department or Board issues shall be in writing and served via certified mail to the owner of record.

(4) Any property owner that failed to install a private well pursuant to the Towns' previous Board of Health Private Well Regulation is considered to be in violation these regulations herein.

XII. HEARING

(1) Any person to whom the Health Department issues an Order may request a hearing before the Board of Health by filing with the Health Department within seven (7) days after the day the Order was served a written request for a hearing. Upon receipt of a hearing request, the Health Department shall set a time and place for the hearing and shall inform the well owner in writing. The hearing shall commence within thirty (30) days from the day on which the written request was made, unless a later time is agreed upon to. At the hearing the person requesting the hearing shall be given an opportunity to be heard and show why the Order should be modified or withdrawn. After the close of the hearing, the Board shall issue a written decision to sustain, modify, or withdraw the Order and shall mail a copy of the decision, to the person who requested the hearing. If the Board sustains or modifies the Order, it shall be carried out within the time period allotted in the original order or in the modification.

(3) If a request for a hearing is not filed with the Board within seven (7) days after the day an Order has been served or if after a hearing, the Order has been sustained in whole or any part, each day's failure to comply with the order was issued or sustained shall constitute a separate violation.

XIII. APPEAL

(1) Any person aggrieved by the final Order, Variance, Well Construction Permit, or Certificate of Water Supply determination of the Board may appeal to any court of competent jurisdiction as provided by the laws of the Commonwealth.

XIV. PENALTIES

(1) Any person who violates any provision of these regulations, or who fails to comply with any final Order of the Board, for which a penalty is not otherwise provided in any of the Massachusetts General Laws, shall upon conviction be fined not less than ten (10) nor more than two hundred (200) dollars. Each day's failure to comply with a final Order or any provision of this regulation shall constitute a separate violation.

XV. VARIANCE

(1) The Board of Health may, grant a variance to any provision of this regulation when, in its opinion, the enforcement would result in manifest injustice, and the applicant has demonstrated that the equivalent degree of protection will be provided without strict application of the particular provision(s) sought to be varied.

(2) Every request for a variance shall be in writing shall state the specific provision of this regulation from which variance is sought, the reasons for seeking the variance and proof of the notice required below. The request shall also contain the information to establish manifest injustice and equivalent degree of protection. At least ten (10) days prior submission of the application to the Board, the applicant shall provide notice of their intent to the request a variance as follows:

> a) by certified mail, return receipt requested to all abutters of the property upon which the private well will be or is located. The notice shall include at a minimum: the name and address of the applicant, a statement of the provision(s) of this regulation from which a variance is sought, and the reason for seeking the variance.

(3) The Board may issue a variance subject to such conditions as it deems necessary to public health, safety, welfare or the environment. Any such conditions shall be stated in writing in the Board's grant of the variance. The Board may revoke, modify or suspend, in whole or in part, a variance after the property owner has been notified in writing and is afforded an opportunity to be heard, pursuant to Section XI of these regulations.

XVI. SEVERABILITY:

(1) If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

XVII. EFFECTIVE DATE

(1) These regulations were adopted by vote of the Foxborough Board of Health, at their regularly scheduled meeting held on December 6, 2021 and are to be in full force and effect on and after December 31, 2021. Before said date, these regulations shall be published and a copy placed on file in the Board of Health Offices and filed with the Department of Environmental Protection, Division of Wastewater Management in Boston. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, as provided by law and applicable regulations.

XVIII. DISCLAIMER

(1) The issuance of a well permit shall not be construed as a guarantee or certification by the Health Department, Board of Health, or its agents that the water system will function satisfactorily or that the water supply will be of sufficient quality or quantity for its intended use.

Signed:

Paul Steeves, Chair: _____

Betsy Allo, Vice Chair _____