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HOTEL, MOTEL AND GUEST CABIN REGULATIONS

At its regular Board of Health meeting held on January 25, 2017, the Bourne Board of Health voted, pursuant to Chapter 111, Section 31 of the Massachusetts General Laws, to amend its Hotel, Motel, and Guest Cabin Regulation of August 25, 1982, previously amended on May 2, 1990 and November 28, 1983 to read as follows:

1. Purpose and Intent

Hotels, Motels, and Guest Cabins are issued annual licenses by the Bourne Board of Health in conformity with Chapter 140, Sections 32A, 32B, 32C, 32D and 32E as amended, to provide temporary housing to persons. Said annual licenses are subject to the provisions of the Laws of the Commonwealth of Massachusetts relating thereto, any applicable terms and conditions, and to the rules and regulations of the Bourne Board of Health.

Minimum sanitation standards are outlined in Chapter II of the State Sanitary Code, 105 CMR 410.000, and are imperative to protect the health, safety, well-being, and consumer interests of occupants of housing and the general public. Smoking inside of guest units may cause a public health nuisance to abutters and violate MGL c. 111, §122.

The Massachusetts Supreme Judicial Court has held that "... [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means"¹.

Now, therefore it is the intention of the Bourne Board of Health to continue to regulate Hotels, Motels, and Guest Cabins to protect the health, safety, and consumer interests of all residents and visitors of such establishments in the Town of Bourne.

2. Applicability

These regulations pertain to the licensing and operation of motels, hotels, and guest cabins within the Town of Bourne. Every owner and operator of such an establishment shall comply with these regulations. The provisions of these regulations are in addition to and not in lieu of any other bylaw, rule, or regulation of the Town of Bourne and official orders of any board, commission or officer.

3. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

- A) Common area: shall mean any hallway, lobby, stairway, walkway, entry door, or room which is accessible to the general public, visitors, and occupants of any motel, hotel, or guest cabin.

¹ Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).

- B) Compliance: means meeting all the requirements of 105 CMR 410.000, MGL c. 111, §122, MGL c.140, Sections 32A-E, MGL c. 270, §22, and other applicable building, fire, and health laws, rules and regulations. It shall also mean correcting any violations in a work-personlike fashion and restoring all parts of the facility to the condition they were in before occurrence of any such violations. Compliance shall also mean in those cases where licenses or permits are required to perform work necessary to correct the violations, such as, but not limited to building, plumbing and wiring that the appropriate official certifies that the work has been completed in accordance with applicable laws and regulations.
- C) Dwelling: means every building or shelter used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to affect noncompliance with the provisions of 105 CMR 410.000 and these regulations.
- D) Efficiency Unit: shall be any unit, room or suite of rooms within a motel, hotel, or guest cabin providing both cooking and sleeping accommodations, is self-sufficient in living requirements for a limited period of time, and meets the current minimum standard of fitness human habitation, as defined in 105 CMR 410.000.
- E) Guest Cabin: shall be any building or group of buildings attached or separate, which provide sleeping accommodations and may also provide cooking facilities to transient motorists. A guest cabin may also be used as an efficiency unit if in full compliance with 105 CMR 410.000.
- F) Guest Unit: shall be any unit, room or suite of rooms within a motel, hotel or guest cabin providing sleeping, but not cooking facilities, for transient motorists.
- G) Hotel: shall be any building or group of buildings providing sleeping accommodations and suitable food service for transient motorists. A hotel may also be referred to as a “facility” or “establishment”.
- H) Motel: shall be any building or group of buildings providing sleeping accommodations providing for transient motorists and which is not licensed as an Inn. A motel may also be referred to as a “facility” or “establishment”.
- I) Occupant: means every person living or sleeping in a dwelling, guest unit, guest cabin, or efficiency unit.
- J) Owner/ Operator: means every person who alone or severally with others:
- (1) has legal title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
 - (2) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
 - (3) is a mortgagee in possession of any such property; or
 - (4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
 - (5) is a manager or person who operates a facility licensed according to Section 4. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner, and may reside on premise.

- K) Person: means every individual, partnership, corporation, firm, association, or group, including a city, town, county or other governmental unit, owning property or carrying on an activity regulated by 105 CMR 410.000 and these regulations.
- L) Pets: mean any domestic animal other than a service, comfort, or support animal which accompanies a person with disabilities.
- M) Smoking: means inhaling, exhaling, burning, or carrying any lighted tobacco or nicotine containing product, or marijuana-infused product in any form which emits smoke or vapor.
- N) Stairway: means any group of stairs consisting of three or more risers.
- O) Violation: means any condition in a motel, hotel, guest cabin, guest unit, efficiency unit, dwelling, rooming house, or upon a parcel of land which fails to meet any requirement of 105 CMR 410.000, applicable laws of the Commonwealth of Massachusetts, and these regulations.

4. Licenses

No person shall conduct, control, manage or operate, directly or indirectly, any motel, hotel, or guest cabins ("facility") within the Town of Bourne unless holding a current license granted by the Board of Health. Such license shall expire on the 31st day of December in each year and is not transferrable. License fees are pursuant to the current Schedule of Fees.

5. Guest Registration

Every person who owns, manages or operates a motel, hotel or guest cabin shall maintain an up-to-date guest register containing each guest's name, permanent residence address, date of registration, date of check in & check out, and telephone number. Said information should be verified by viewing a photo ID of each guest. The date of check out shall be logged at the time of registration. Verifiable business travel may be exempt from occupancy time frames in Sections 6 and 7. Such register shall be made available for inspection to the Board of Health, its agent, or a police officer immediately upon request.

6. Guest Unit Occupancy

Occupancy of guest units shall be limited to over-night accommodations for transient motorists and shall not be occupied as a principal place of residence. Occupancy of a motel guest unit by a person at the same licensed premises shall be limited to three weeks in any year. Only guests registered according to Section 5 shall be permitted to overnight accommodations. Should a person wish to extend his/ her stay at said motel beyond a three-week time period, they must continue their stay in a designated efficiency unit.

7. Efficiency Unit Occupancy

Occupancy of efficiency units by a person at the same licensed premises shall be limited to 90 calendar days in any year. Only guests registered according to Section 5 shall be permitted to overnight accommodations. Any requests for additional 90 day extensions must be submitted to the Board of Health in writing 15 days prior to the expiration of the 90 day period.

8. Inspections

The Board of Health shall inspect each motel, hotel, or guest cabin annually prior to issuing or renewing a license required by Section 4.0. Such inspections shall be made in accordance with applicable laws and regulations relative thereto, and the State Sanitary Code Regulations pertaining to sanitation and public safety, as defined in 105 CMR 410.000. Annual inspections are also required by the Building Inspector and Fire Chief.

9. Animals

Pets are prohibited from occupying Hotels, Motels, and Guest Cabins exclusive of:

- A) Pets for service, comfort, or support animals which accompany a person with disabilities.
- B) A pet of an owner/ operator who resides on site. If said pet is a dog than it shall be licensed with the Town of Bourne Clerk's office annually.

10. Smoking

Smoking is prohibited inside of any Hotel, Motel, and Guest Cabin including any connected portion of which that is occupied by the Owner/ Operator. Common areas including but not limited to lobbies, hallways, and stairways shall be smoke free at all times. Individual guest units will not be designated as smoking rooms.

- A) Owners/Operators are required to make reasonable efforts to prevent second-hand smoke. Occupants and visitors of Hotels, Motels, and Guest Cabins shall smoke a minimum of ten feet away from windows, doors, entry ways, and other areas which may attribute to second hand smoke.
- B) Every person having control of premises upon which smoking is prohibited by this regulation shall conspicuously display upon the premises "No Smoking" signs. Signs are available from the Bourne Board of Health and should be posted within every common area, guest unit, efficiency unit, and any other area used for human habitation at the licensed facility.
- C) The hotel may designate a specific area on the outside premises where smoking can occur. This area must be properly labeled and maintain a distance of 10' from all entryways and common areas. Accommodations for disposing of tobacco products must be provided.

11. Waste Disposal

Garbage, trash, and mixed-rubbish shall be disposed of according to applicable laws, rules, and regulations. Information on the disposal of medical or biological waste shall be made available and posted in the office of the Hotel, Motel, or Guest Cabin. Units shall have garbage, trash, and mixed-rubbish removed daily by staff unless another procedure is approved in writing by the Board of Health. Any and all animal waste must be picked up and disposed of promptly.

12. Cooking Facilities

Hot plates and any other cooking facilities other than microwaves are prohibited from guest units.

13. Heating Facilities

The owner shall maintain heating facilities and temperature requirements in accordance with the State Sanitary Code 105 CMR 410.200 & 105 CMR 410.201. Space heaters are prohibited from guest units, guest cabins, and efficiency units.

14. Linens

Protective mattress covers are required for all beds in every facility. Laundering facilities shall be provided to wash bedding, linens, and towels. On site laundry facilities need to be approved by the Board of Health in writing. The use of both detergents and sanitizing agents is required for shared linens.

15. Grant, Suspension, or Revocation of Licensure

The Board of Health, in each instance after a hearing, notice of which shall be sent to the licensee by first class mail and published once in a newspaper published or circulated in the Town of Bourne, may grant, suspend or revoke any license issued to a motel, hotel or guest cabins, for violation of these regulations or applicable provisions of the State Sanitary Code. Any license so suspended or revoked may be re-issued by the Board of Health upon satisfactory evidence that the violation (s) is corrected.

16. Requests for Relief from Regulations

Any owner, operator, or person who is aggrieved by these regulations and their amendments may request a hearing before the Board of Health. Said request must be submitted in writing to the office of the Bourne Board of Health seven days prior to the hearing date and describe in explicit detail the nature of the request.

17. Penalties:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Bourne Board of Health Fine Regulation and Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

18. Enforcement:

Enforcement of this regulation shall be by the Bourne Board of Health or its designated agent(s). Any person who desires to register a complaint pursuant to the regulation may do so by contacting the Bourne Board of Health or its designated agent(s) and the Board shall investigate.

19. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

20. Effective Date:

This revised regulation shall take effect on February 15, 2017 after publication in a newspaper of general circulation as approved at the public meeting on January 25, 2017.

-The Bourne Board of Health

