



# PROTECTION OF PUBLIC HEALTH AT BARE HILL POND

# THE BOH HAS BROAD AUTHORITY FROM THE STATE

- MGL 111 sec. 122

## Section 122: Regulations relative to nuisances; examinations

The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the Public Health and safety relative thereto and to articles capable of containing or conveying infection or contagion or of creating sickness brought into or conveyed from the town or into or from any vessel. Whoever violates any such regulation shall forfeit not more than one thousand dollars.

## NUISANCE (CONTINUED)

- Board of Health's obligations:
  - "examine, destroy, remove and prevent as the case may require."
  - "make regulations relative thereto."
- Exceptions:
  - Activities that are "generally acceptable farming procedures."

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# THE STATE SANITARY CODE ALONG WITH TOWN BY-LAWS GOVERN BOH RESPONSIBILITIES

- Bathing Addressed in 105 CMR: DEPARTMENT OF PUBLIC HEALTH 105 CMR 445.000: MINIMUM STANDARDS FOR BATHING BEACHES (STATE SANITARY CODE, CHAPTER VII)
- 445.001: Purpose The purpose of 105 CMR 445.000 is to protect the health, safety and well-being of the users of bathing beaches, to establish acceptable standards for the operation of bathing water and to establish a procedure for informing the public of any bathing water closures.

# “BEACH” MEANS MORE THAN THE TOWN BEACH

- 445.004: Scope: 105 CMR 445.000 shall apply to all public and semi-public bathing beaches.
- Public Bathing Beach means any bathing beach open to the general public, whether or not any entry fee is charged, that permits access to bathing waters.
- Semi-public Bathing Beach means any bathing beach that has common access and/or common use by a group or organization, which includes: (1) any bathing beach used in connection with a hotel, motel, a manufactured home park, campground, apartment house, condominium, country club, youth club, school, camp or other similar establishment where the primary purpose of the establishment is not the operation of the bathing beach, and where admission to the use of the bathing beach is included in the fee or consideration paid or given for the primary use of the premises; or (2) any bathing beach used in connection with a neighborhood or residential association; or (3) any bathing beach operated solely for the use of members and guests of an organization that maintains such a bathing beach.

# SCOPE IS BROADER THAN JUST COLIFORM TESTING

- 445.030: Bathing Water Quality
- Bathing or swimming shall not be permitted in any bathing water where the quality of the water does not meet the standards established in 105 CMR 445.030(A), 445.030(B), or 445.030(C), and no bathing or swimming shall be allowed when the bathing water is determined by the Board of Health or the Department to be unfit or so subject to contamination as to constitute a menace to health.
- Bathing or swimming shall not be permitted in bathing waters when: 105 CMR: DEPARTMENT OF PUBLIC HEALTH 445.030: continued

## (A) Physical Quality.

- (1) Sludge deposits, solid refuse, floating waste solids, oils, grease or scum are present; or (
- 2) There are safety hazards including, but not limited to, fast currents, sharp drop-offs or an unstable bottom in the wading area(s), or lack of water clarity.

## (B) Bacteriological Quality.

- (1) The results of a sanitary survey or other information indicates that sewage or other hazardous substances may be discharged into the bathing water to a degree considered by the Board of Health or the Department to be of public health significance; or
- (2) Epidemiological evidence discloses the prevalence of an infectious disease or other health condition which is considered to be related to the use of the bathing water and is considered by the Board of Health or the Department to be of public health significance; or
- (3) The bacteriological quality of the bathing water is unacceptable based on the standards specified in 105 CMR 445.031

(C) Oil, Hazardous Materials, or Heavy Metals. Oil, hazardous materials, or heavy metals are present in excess of surface water quality standards or guidelines established by the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection.

# TESTING IS TO BE CONDUCTED BY THE BOH OR ITS AGENT USING A SANITARY SURVEY

- 445.032: Collection of Bathing Water Samples

(A) Location. (1) The Board of Health, for public and semi-public bathing beaches that are not operated by the Commonwealth, shall approve sampling locations at each bathing beach in its jurisdiction.

(E) Personnel. Samples shall be taken by the Board of Health, the Department, their duly authorized representatives or other qualified persons as determined by the Board of Health or the Department.

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Sanitary Survey means a written report, conducted by a Massachusetts Registered Sanitary Engineer, Certified Health Officer or Registered Sanitarian, documenting an examination of the bathing water and contiguous land masses for the purpose of identifying actual or potential sources of microbiological or chemical contamination. The sanitary survey shall also include a description of the water circulation associated with the bathing area, the impact of bather load on the bathing beach area and any natural or artificial physical hazards.