

# Introduction to Management Districts in Massachusetts

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## Introduction

Management districts are legal and geographic entities established in order to carry out environmental work such as funding and building infrastructure improvements, managing infrastructure or programs, or providing other environmental protection services. This section of the Guidance introduces the concept of management districts, summarizes the legal mechanisms available to establish them, and notes advantages and disadvantages of different district approaches.

Readers who need to understand legal details and citations governing the establishment of management districts should consult the section beginning on page 5: Details on Legal Framework for Management Districts. DEP also plans to develop more comprehensive guidance on management districts for use by municipalities.

Districts are used throughout the United States to protect many different types of environmental resources, but they are less common in Massachusetts given our tradition of strong local government. However, districts have been used here to provide traditional environmental protection and utility services, most commonly for water delivery and wastewater or septage treatment in geographic areas that cross municipal boundaries.

More recently, a few Massachusetts local governments have established districts and management programs to provide non-traditional environmental services or to manage activities that have historically been the responsibility of individual property owners, for example, management of on-site treatment systems, construction and management of decentralized sewers, and operation of stormwater treatment systems. The Cape Cod Commission has been working with officials and citizens of Cape municipalities to explore the concept of wastewater districts. Some of the newer management districts and programs in use in Massachusetts are listed in the table beginning on page 11.

## Benefits of the District Approach

Districts are an important approach for dealing with nutrient pollution, particularly when a problem is difficult or expensive to address with conventional municipal services or management mechanisms, or where the environmental impact of individual activity requires a higher degree of management. The benefits of management districts are their focus, flexibility, and appropriate funding:

**Focus:** Districts provide a targeted approach to environmental, resource or public health issues specific to a certain geographic area. They allow the management clarity and specificity sometimes lacking in the wide spectrum of activities carried out by local governments.

**Flexibility:** Management districts can be structured and funded differently depending upon the services being provided, the geographic area included, and the available funding. Examples of flexibility include:

- Services for watersheds, lakes, and estuaries whose boundaries cross municipal boundaries.

## Introduction to Management Districts in Massachusetts

- Services that differ from those traditionally offered by a municipality, such as management of on-site wastewater systems.
- Services based on regulations and programs of multiple authorities, each with its own set of requirements, performance criteria, and involved parties.
- A comprehensive range of services, or a single service. Districts also have flexibility in providing the services themselves, contracting with other providers, or establishing performance standards that district members must meet.

### **Funding:**

- Districts can be designed to generate fees or levy taxes solely on the individuals benefiting from the services, without increasing costs to other taxpayers.
- Districts can issue bonds and notes and raise revenues to carry out their stated purposes.
- For services traditionally provided by individual property owners, such as on-site wastewater system maintenance, the pooling of services offered by a district can save money for individual homeowners.

## Legal Mechanisms to Establish Districts

Many legal factors go into a municipality's decision to form a district and its choice of the legal mechanism to establish the district. Discussions with local officials, legal counsel, and the DEP and EPA are crucial, and it is also important that local bylaws do not substantively conflict or interfere with DEP's regulatory and permitting authority over wastewater facilities and discharges. Input from municipal legal counsel is needed to assess the issues associated with charging a fee for any municipal permitting activities.

Massachusetts law provides three mechanisms to establish districts:

1. General State Law
2. Special Act of the Legislature
3. Municipal Home Rule Authority, Bylaws, and Regulations.

### *1. General State Law*

Massachusetts General Laws have three legal options for the establishment of management districts.

*a. Water Pollution Abatement Districts.* Under the Massachusetts Clean Waters Act, DEP is authorized to propose, and in some cases mandate, the establishment of water pollution abatement districts consisting of one or more cities or towns, or designated parts thereof.

A regional water pollution abatement district is an independent entity administered by a district commission, with authority to

- Adopt bylaws and regulations;
- Acquire, dispose of and encumber real and personal property, including acquiring real property by eminent domain;
- Construct, operate and maintain water pollution abatement facilities; and
- Issue bonds and notes, and raise revenues to carry out the purposes of the district by means of apportioned assessments on the member municipalities.

This mechanism allows communities to work together and with DEP to form a management district without a special act of the Legislature. DEP has the authority to mandate formation of a water pollution abatement district, but has not exercised it to date. DEP can also require such a district to implement a water pollution abatement plan subject to DEP approval.

## Introduction to Management Districts in Massachusetts

### *b. Independent Water and Sewer Commissions and Intermunicipal Agreements.*

Massachusetts General Law authorizes municipalities to establish an independent water and sewer commission within the boundaries of a municipality, and to enter into intermunicipal agreements for the purpose of jointly performing a service that a municipality is authorized to do individually or to allow one municipality to perform a service for another.

*c. Regional Health Districts.* Massachusetts General Law authorizes two or more municipalities to form a regional health district, which has powers and duties equivalent to those exercised by the Boards of Health (BoH) and health departments of the constituent municipalities. The primary purpose of a regional health district does not appear to be pollution abatement, but the language is broad enough to encompass the wastewater regulatory powers of a Board of Health and, therefore, may be another general law option worth exploring.

### *2. Special Act of the Legislature*

The Massachusetts Constitution authorizes municipalities to file home rule petitions with the Legislature requesting enactment of a special law. In practice, this is the legal mechanism most often used to establish a region-wide district. A special act may also be necessary or appropriate when a municipality is seeking to manage a service within its boundaries in a manner that goes beyond or is inconsistent with applicable general or special laws.

The municipal legislative body must approve a home rule petition before it can be acted on by the Legislature, although a local vote does not preclude legislative amendments. In addition to involving the municipality's executive, municipal counsel, and state legislator(s) in discussions about home rule petitions, it is also important to consult with the Executive Office of Environmental Affairs and DEP. Both agencies will typically comment on the merits of the proposed legislation, and their support can be an important factor in securing passage of the bill.

Because of the Legislature's broad authority to enact laws consistent with the state constitution, including the power to exempt municipalities from otherwise applicable general laws, the enactment of special legislation can be the most effective vehicle for establishing a district encompassing more than one municipality, an environmentally important geographic area, or for innovative organization of district activities.

### *3. Municipal Home Rule Authority, Bylaws, and Regulations*

The Massachusetts Constitution grants authority to a municipality to exercise any power or function which the Legislature has the power to confer on it and which is not inconsistent with the Constitution or a state law or prohibited by the municipality's charter. Municipalities may adopt zoning or general bylaws to regulate a wide range of uses and activities within all or a portion of their boundaries, although the bylaws must be reviewed and approved by the Commonwealth's Attorney General.

*a. Zoning Bylaws.* A zoning bylaw typically imposes restrictions on categories of land uses located in a defined geographical area. For example, it may establish an aquifer protection district that encompasses the boundaries of the Zone II of contribution to a public water supply well and prohibit certain new land uses within that area. However, zoning bylaws must allow the continuation of nonconforming land uses within a zoning district, provided the uses were in place prior to passage of the bylaw. A zoning bylaw requires a planning board hearing and a two-thirds vote of town meeting.

## Introduction to Management Districts in Massachusetts

*b. General Bylaws.* In contrast, a general bylaw typically applies uniformly to all existing and new uses or activities subject to the bylaw, and requires only a majority vote of town meeting. A common example is a wetlands protection bylaw that implements a local permit program with more stringent requirements than the state Wetlands Protection Act. A general bylaw is not required by state law to grandfather prior nonconforming uses

*c. Local Boards of Health.* It is worth noting that a Board of Health has broad authority to regulate wastewater independently of general municipal bylaws. Boards of Healthcare authorized to promulgate “reasonable” regulations, including regulations that exceed the minimum requirements of Title 5, provided the BoH makes explicit the local conditions that exist and/or reasons that support more stringent regulation. For this particular type of authority, a BoH regulation can be effective, given its experience, existing jurisdiction in this area, and its significant penalty authority.

### Choosing the Appropriate Legal Mechanism

Each of these legal approaches has advantages and disadvantages. Under general state law, the provisions for establishing a water and sewer commission and regional health districts are mechanisms available to establish districts that have a regional focus and/or independent financing and operating authority. On the other hand, sewer commissions and regional health districts have not yet been used to address the wide range of issues related to nutrient loadings. Water Pollution Abatement Districts can be structured to meet particular local needs, but they have not been used to date.

A special act of the Legislature allows one or more communities to craft a district that meets their particular needs. However, this approach requires close work with a large group of stakeholders. Municipal home rule authority can be used relatively quickly to establish districts, and the local departments administering them are well-known mechanisms. However, districts formed through local bylaws cannot cover more than a single municipality and they are dependent on the municipality for their authority and funding.

Communities may opt to provide management services through their Board of Health authority because it may be more expedient and because of confusion about what constitutes a management district and its benefits. However, the complexity of watershed-based nutrient management plans and the challenges in managing nutrients from sources such as on-site systems or stormwater are strong arguments in favor of a more formal district structure.

<b>Management Districts, Resources and Regulations</b>	
<b>Federal</b> EPA	Draft EPA Guidelines for Management of On-site/Decentralized Wastewater Systems, September 2000: <a href="http://www.epa.gov/owmitnet/mtb/decent/downloads/guidelines.pdf">http://www.epa.gov/owmitnet/mtb/decent/downloads/guidelines.pdf</a>
<b>Other</b>	
Marine Studies Consortium	M.T. Hoover: A Framework for Site Evaluation, Design, and Engineering of On-Site Technologies Within a Management Context, 1997: Executive Summary: <a href="http://www.brandeis.edu/marinstudies/risk.html">http://www.brandeis.edu/marinstudies/risk.html</a> Entire Report: <a href="http://www.state.ma.us/dep/brp/wwm/files/hoovered.doc">http://www.state.ma.us/dep/brp/wwm/files/hoovered.doc</a>
Pioneer	<a href="#">How to Create a Stormwater Utility, 1999:</a>

# Introduction to Management Districts in Massachusetts

Management Districts, Resources and Regulations	
Valley Planning Commission	<a href="http://www.pvpc.org/docs/landuse/pubs/storm_util.pdf">http://www.pvpc.org/docs/landuse/pubs/storm_util.pdf</a>

## Details on Legal Framework for Management Districts

A district can be an effective means of managing wastewater in one or more municipalities. In simple terms, districts can be established (1) pursuant to a general state law; (2) a special act of the Legislature; or (3) through the exercise of a municipality's home rule authority (e.g., by enactment of a bylaw). Set forth below is a summary of how districts are established by means of these three pathways.

### I. Establishing a water pollution abatement district pursuant to general state law

#### *DEP-Mandated Districts*

Under the **Massachusetts Clean Waters Act**, the Department of Environmental Protection ("DEP") is authorized to propose, and in some cases mandate, the establishment of water pollution abatement districts consisting of one or more cities or towns, or designated parts thereof. [See M.G.L. c. 21, §28 – 30, 32, 35 and 36.] When proposing the formation of a district, DEP must first obtain the approval of the Massachusetts Water Resources Commission ("WRC"). Within 90 days of a municipality's receipt of DEP's proposal to establish a district, the municipality must take a vote, of its city council or at town meeting as applicable, whether to accept DEP's proposal. If the municipality votes no, DEP is directed to hold a hearing pursuant to M.G.L. c. 30A to further consider the matter. Upon completion of the hearing, DEP may - upon finding that the creation of the district "is necessary for the prompt and efficient abatement of water pollution" and with the approval of the WRC - declare the mandatory formation of the district.

An established district may only be dissolved by an act of the Legislature. DEP, with the approval of the WRC, may also propose the enlargement of a district or the consolidation of one or more districts, subject to the approval of the Legislature or pursuant to the process outlined above for establishing a district by agreement of the affected municipalities or mandatorily by DEP.

Each water pollution abatement district established under the Massachusetts Clean Waters Act is an independent entity administered by a "district commission." When the district is established with the agreement of the affected municipalities, representatives of the municipalities comprise the members of the district commission. When the district is established mandatorily by DEP, each member of the district commission is appointed by DEP, with the approval of the WRC. The district commission is required to employ a registered professional engineer to serve as the executive director of the district, and a person with accounting and financial experience to serve as the treasurer of the district.

A district commission's powers include authority to:

- adopt bylaws and regulations;

## Introduction to Management Districts in Massachusetts

- acquire, dispose of and encumber real and personal property, including acquiring real property by eminent domain;
- construct, operate and maintain water pollution abatement facilities; and
- issue bonds and notes; and raise revenues to carry out the purposes of the district by means of apportioned assessments on the member municipalities.

Regarding the latter assessment authority of the district, the member municipalities may, in turn, impose assessments on those residents, corporations and other users served by the district. If a municipality fails to pay the district commission their apportioned assessment, the state may pay the amount owed the district commissions from other appropriations designated by the state for the municipality.

A district is required to present a plan for the abatement of water pollution within the district to DEP within one year after its establishment or such greater or lesser time period established by DEP. The plan must include detail as to the:

- sources of pollution within the district;
- means by which and the extent to which such pollution is to be abated;
- project(s) for the construction, acquisition, extension or improvement of facilities required by the plan, and the estimates of the capital costs associated with such projects;
- amount of federal financial assistance applicable to such project costs for which the district proposes to apply; and
- method of apportioning among the member municipalities the capital and operation and maintenance costs associated with such projects.

After approval, the district's plan may be altered only with the approval of DEP.

In summary, DEP has broad statutory authority to propose and mandate the establishment of a district under the MA Clean Waters Act, and to require the district to implement a water pollution abatement plan subject to DEP's approval. To date, DEP has not exercised this authority. However, municipalities and other interested parties should be aware of the availability of this authority when evaluating the district option as a means of more effectively managing wastewater on a regional basis.

### *Independent Water and Sewer Commissions and Intermunicipal Agreements*

Massachusetts general laws also authorize municipalities to establish an independent water and sewer commission within the boundaries of a municipality pursuant to M.G.L. c. 40N, and to enter into intermunicipal agreements pursuant to M.G.L. c. 40, §4A for the purpose of jointly performing a service that municipality is authorized to do individually or to allow one municipality to perform a service for another. Unlike districts established under the Massachusetts Clean Waters Act, these statutory options do not require prior approval of DEP (although a municipality must vote to accept the provisions of M.G.L. c. 40N before availing itself of the authority thereunder), and they can be alternative means of accomplishing some of the benefits of a district on a more modest scale.

### *Regional Health Districts*

Finally, M.G.L. c. 111, §27B authorizes two or more municipalities to form a "regional health district", which consists of a regional board of health, a director of health and his or her staff. A regional health district established thereunder has "all the powers and shall perform all the duties conferred upon, or exercised by, the boards of health and health departments of the constituent municipalities under any law or ordinance pertaining thereto." Unlike a district

## **Introduction to Management Districts in Massachusetts**

established pursuant to the MA Clean Waters Act, the primary purpose of a regional health district does not appear to be pollution abatement, but the language of M.G.L. c. 111, §27B is broad enough to encompass the wastewater regulatory powers of a board of health and, therefore, may be another general law option worth exploring.

### **II. Establishing a district through the enactment of a special act of the Legislature**

In practice, districts of regional scope in Massachusetts have been established by special acts of the Legislature. As examples, in 1968 the Legislature enacted separate acts of special legislation establishing two regional water pollution abatement districts - the Greater Lawrence Sanitary District ("GLSD"), and the Upper Blackstone Water Pollution Abatement District ("UBWPAD"). [See Chapter 750 of the Acts of 1968, establishing the GLSD, and Chapter 752 of the Acts of 1968, establishing the UBWPAD.] GLSD's enabling legislation established a district consisting of the Cities of Lawrence and Methuen and the Towns of Andover and North Andover. GLSD, pursuant to statute and contract, also serves the Town of Salem, New Hampshire. In comparison, UBWPAD's special legislation authorized the City of Worcester and several adjoining towns to create a district, the boundaries of which are based on an affirmative vote of each of the member municipalities. In particular, the GLSD enabling legislation, as amended by subsequent special legislation (Chapter 320, Acts of 1970), is similar to the framework established for a water pollution abatement district under the MA Clean Waters Act. Both the GLSD and UBWPAD special acts comprehensively address the scope of authority and responsibilities essential to a regional district, such as authority to take land by eminent domain, to issue bonds and notes, and to impose assessments on member municipalities, who in turn may assess user charges.

Special legislation may also be necessary or appropriate when a municipality is seeking to manage wastewater within its boundaries in a manner that goes beyond or is inconsistent with applicable general or special laws. For example, Chapter 157 of the Acts of 2000 provides that notwithstanding the provisions of two sections in a state general law (M.G.L. c. 83) that govern a municipality's authority to establish and administer a sewer system, the Town of Provincetown may limit those properties that may connect to the sewer to ones where an on-site septic system cannot be constructed on the property in compliance with 310 CMR 15.000 (Title 5). The above referenced provision of state law from which the Legislature exempted Provincetown gives property owners the right to connect to an abutting municipal sewer line with available capacity. This special legislative authority to restrict the scope of properties initially served by the sewer system significantly reduced the cost of the municipal wastewater treatment facility and gives the Town more flexibility to control growth. The Provincetown special legislation also varied the requirements of M.G.L. c. 80, the state general law on betterments, by allowing the Town to defer imposing a betterment assessment on the properties adjoining the sewer system unless and until the property is actually connected to the sewer, rather than upon the completion of the sewer.

The Massachusetts Constitution authorizes municipalities to file home rule petitions with the Legislature, which request enactment of a special law. [See Section 8 of the Home Rule Amendment (Mass Const. Amend., Article 2, as appearing in Amend. Article 89.)] The municipal legislative body must first approve a home rule petition before it can be acted on by the Legislature. The municipal vote approving a home rule petition may be general in that it requests legislation to accomplish a general purpose, and may or may not include draft legislation. A general vote does not preclude legislative amendments. If the municipality does not approve a draft bill, the legislation may be drafted by the municipal executive (the mayor,

## Introduction to Management Districts in Massachusetts

manager or selectmen) or by the state legislator who files it. A municipal vote may also specifically restrict or preclude the Legislature from making substantive amendments to the draft bill approved by the municipality. The downside to this approach is that the municipality may need to vote again on legislative amendments to its proposed bill in order to secure passage of the special legislation, which could delay action for months, particularly if a town meeting vote is required. Another option is to include language in the municipal vote that authorizes the municipal executive (e.g., selectmen) to approve amendments to the bill that are within the scope of the general public objectives of the petition. [See Memorandum to City Solicitors and Town Counsels from the Counsel to the House of Representatives and the Counsel to the Senate, dated March 24, 1998, on the Form of Home Rule Petitions.]

Because of the Legislature's broad authority to enact laws consistent with the state constitution, including the power to exempt municipalities from otherwise applicable general laws, the enactment of special legislation can be the most effective vehicle for establishing a district encompassing one or more municipalities or an environmentally relevant geographic area and/or to manage wastewater and its related impacts in creative ways. Parties that need to be involved in the special legislation route to establishing a district include the municipality's executive, municipal counsel, and state legislator(s). It is also important to consult with the Executive Office of Environmental Affairs and DEP in the development and legislative review of special legislation of this nature. Both agencies will typically weigh in the merits of the proposed legislation, and their support can be an important factor in securing passage of the bill.

### III. Establishing a district through the enactment of a municipal bylaw

A municipality's home rule powers under the Massachusetts Constitution grant authority to any city or town to exercise any power or function which the Legislature has the power to confer on it, which is not inconsistent with the Constitution or a state law or prohibited by the charter of a city or town. [See Section 6 of the Home Rule Amendment to the Massachusetts Constitution, and M.G.L. c. 43B ("Home Rule Procedures").] As a result, municipalities may adopt zoning or general bylaws to regulate a wide range of uses and activities within all or a portion of a municipality.

Zoning and general bylaws differ in their approach and procedure for adoption. Both a zoning and general bylaw must be approved by the Attorney General (AG). If the AG fails to act within ninety days, the bylaw is deemed constructively approved by the AG. The AG's narrow standard of review is whether the bylaw is, on its face, consistent with the state constitution and state laws.

#### *Zoning Bylaws*

A zoning bylaw typically imposes restrictions on categories of land uses located in a defined geographical area. For example, a zoning bylaw may establish an aquifer protection district that encompasses the boundaries of the Zone II of contribution to a public water supply well. This type of zoning bylaw imposes additional wellhead protection zoning controls that prohibit the siting of certain new land uses within that zone because of their potential adverse impact on the well. [See 310 CMR 22.21 of DEP's Drinking Water Program Regulations, which set forth the scope of wellhead protection zoning and nonzoning controls that must be adopted to protect a new public water supply well approved by DEP.] A building inspector has the authority to withhold a building or occupancy permit if the structure would violate a zoning bylaw. However, a zoning bylaw "grandfathers" (i.e., allows the continuation of) prior nonconforming uses within a



## Introduction to Management Districts in Massachusetts

zoning district. Procedurally, a zoning bylaw is adopted in accordance with the provisions of M.G.L. c. 40A, §5, and requires a planning board hearing and a 2/3rds vote of town meeting.

### *General Bylaws*

In comparison, a general bylaw is adopted pursuant to a municipality's home rule authority and in accordance with the procedures in M.G.L. c. 40, §32, which require only a majority vote of town meeting. Moreover, a general bylaw is not required by state law to grandfather prior nonconforming uses, and typically applies uniformly to all existing and new uses or activities subject to the bylaw. A common example of a general bylaw is a wetlands protection bylaw that implements a local permit program with more stringent requirements than the state Wetlands Protection Act. A number of municipalities have also enacted bylaws that require residents to comply with water conservation measures, such as restrictions on outdoor watering. Violations of a general bylaw are subject to penalties of up to \$300 per violation and may be enforced pursuant to the non-criminal disposition provisions of M.G.L. c. 40, §21D, which allow the municipality to issue a "ticket" for the violation.

Accordingly, a municipality has broad home rule authority to enact a general bylaw applicable to existing and new uses in a defined environmentally sensitive or other geographical "district" within the boundaries of the municipality. Such a bylaw may impose more stringent requirements related to wastewater management within the district, including limitations on the use of fertilizers or setbacks on wastewater discharges that have the potential to impact nearby surface water bodies. The bylaw could also establish a related permit program that further regulates nutrient generating activities. Municipalities must be careful, however, that their bylaw permitting scheme does not substantively conflict or interfere with DEP's plenary regulatory and permitting authority over wastewater facilities and discharges under the Massachusetts Clean Waters Act, M.G.L. c. 111, §17 and M.G.L. c. 83. It is also important to consult with municipal legal counsel to assess the issues associated with charging a fee for any such municipal permitting activities. These issues include ensuring that the assessment constitutes a valid fee rather than a tax that has not been authorized by the Legislature, and evaluating whether and under what circumstances fee revenues can be deposited into a dedicated revolving fund rather than the municipality's general fund. [See, e.g., M.G.L. c. 44, §53 and §53E½.]

The cost of a municipality's construction of wastewater treatment facilities or extension of its municipal sewer system to serve uses within the district is typically recovered through the assessment of betterments on the benefited properties pursuant to M.G.L. c. 80.

### *Board of Health Authority*

Finally, it is worth noting that a Board of Health (BoH) has broad authority to regulate wastewater independent of a general bylaw adopted by a municipality. A Board of Health is authorized to promulgate "reasonable" regulations under M.G.L. c. 111, §31, including regulations that exceed the minimum requirements of Title 5, provided the Board states at the public hearing on the proposed regulation the local conditions that exist and/or reasons that support the more stringent regulation. A Board of Health may assess a fine of up to \$1000 for a violation of its regulations, as compared to a maximum \$300 fine that can be assessed for a violation of a general bylaw. Boards of Health also have the authority to enter into betterments associated with the upgrade of failed Title 5 systems pursuant to M.G.L.c. 111, s.127B½.

Compared to a general bylaw, a BoH regulation can be an effective vehicle for managing wastewater within all or a portion of a municipality in view of a board of health's existing jurisdiction in this area (under Title 5) and attendant experience, and its greater penalty authority. As discussed in Section I above, two or more municipalities have the authority under

## Introduction to Management Districts in Massachusetts

M.G.L. c. 111, §27B to form a regional health district that would allow the uniform application and enforcement of more comprehensive local wastewater management regulations across a broader geographic area.

### Legal Framework for Management Districts Legal and Regulatory Citations

#### Massachusetts General Laws and Constitutional Amendments

- Massachusetts Clean Waters Act: M.G.L. c. 21, section 26 – 53.
- Water Pollution Abatement Districts: M.G.L. c. 21, sections 28 – 30, 32, 35 and 36.
- DEP Authority to Establish and Approve Wastewater Facilities: M.G.L. c. 83, section 6 and M.G.L. c. 111, section 17.
- Independent Water and Sewer Commissions: M.G.L. c. 40N.
- Intermunicipal Agreements: M.G.L. c. 40, section 4A.
- Regional Health Districts: M.G.L. c. 111, section 27B.
- Home Rule Petitions for Special Acts of the Legislature: Section 8 of the Home Rule Amendment to the Massachusetts Constitution, Article 2, as appearing in Amendment Article 89.
- General State Law on Betterments: M.G.L. c. 80.
- Municipal Authority of General and Zoning Bylaws: Section 6 of the Home Rule Amendment to the Massachusetts Constitution, and M.G.L. c. 43B.
- Authority and Procedures for Adopting and Enforcing Municipal General Bylaws: M.G.L. c. 40, sections 21, 32, and 21D respectively.
- Authority and Procedures for Adopting Zoning Bylaws: M.G.L. c. 40A.
- Board of Health Authority: M.G.L. c. 111, sections 31 and 127B ½.
- Municipal Finance: M.G.L. c. 44, sections 53 and 53E 1/2.

#### Massachusetts Special Legislation

- Greater Lawrence Sanitary District Enabling Legislation: Statutes of 1986, c. 750, and Statutes of 1970, c. 320.
- Upper Blackstone Water Pollution Abatement District Enabling Legislation: Statutes of 1968, c. 752.
- Town of Provincetown Special Legislation: Statutes of 2000, c. 157.

#### DEP Regulations and Other Citations

- DEP On-Site Sewage Treatment and Disposal (Title 5): 310 CMR 15.000: <http://www.state.ma.us/dep/brp/files/310cmr15.pdf>.
- DEP Drinking Water Program Regulations: 310 CMR 22.21: <http://www.state.ma.us/dep/brp/dws/files/310cmr22.pdf>.
- Memorandum to City Solicitors and Town Counsels on the Form of Home Rule Petitions, from the Counsel to the House of Representatives and the Counsel to the Senate, dated March 24, 1998.

#### Document Availability

Massachusetts General Laws and Constitutional Amendments are available through

## Introduction to Management Districts in Massachusetts

<b>Legal Framework for Management Districts Legal and Regulatory Citations</b>
<p>the internet:</p> <ul style="list-style-type: none"> <li>• Massachusetts General Laws (MGL): <a href="http://www.state.ma.us/legis/laws/mgl/mgllink.htm">http://www.state.ma.us/legis/laws/mgl/mgllink.htm</a></li> <li>• Massachusetts Constitution and Amendments: <a href="http://www.state.ma.us/legis/const.htm">http://www.state.ma.us/legis/const.htm</a></li> </ul> <p>For copies of special legislation or legislative memoranda, readers can contact the districts, municipalities, or the State Library of Massachusetts: <a href="http://www.state.ma.us/lib/homepage.htm">http://www.state.ma.us/lib/homepage.htm</a></p>

## Examples of Management Districts in Massachusetts

This table summarizes districts and programs established by some Massachusetts municipalities to provide wastewater management for sources other than traditional sewers and treatment works. This is not a complete listing for Massachusetts. Information is correct as of January 2003.

<b>Town/Coverage</b>	<b>Purpose</b>	<b>Legal Authority</b>	<b>Contact</b>
Tri-Town Septage District  Townwide program in Orleans, Brewster, Eastham	Initially there was an on-site inspection and testing program, as well as operation of a septage treatment plant. This was paid by discharge fees to property owners. On-site program was terminated once all systems were inspected. BoH sends out reminder letters to pump every 3 years.	Special legislation	James Burgess: Chief Operator (508) 255-4190
Tisbury  Townwide program	Operation of a conventional sewer system in downtown area, and inspection and monitoring of on-site systems throughout rest of town.	Town Meeting	Tom Pachico, Health Agent (508) 696-4290 Tpachico@ci.tisbury.ma.us
Wayland  Town-wide district; services currently provided only to central business district	Treatment plant operation and connection of onsite systems near the plant.	Special legislation	Jeff Ritter, Executive Secretary (508) 358-3620

## Introduction to Management Districts in Massachusetts

Town/Coverage	Purpose	Legal Authority	Contact
Chicopee Townwide program	Comprehensive stormwater management utility: capital improvements, inspection, and operations & maintenance of stormwater BMPs. Stormwater management fee.	State law governing water/sewer utilities. City ordinance used to establish fees	Stan Kulig, Public Works Supt (413) 594-3557 Skulig@chicopee.ma.us
Cohasset Townwide program	Voluntary inspection, monitoring, maintenance and repair of onsite systems; approximately 1500 onsite systems are located in the Town, or 60% of properties.	Board of Health	Joe Godzik, Health Agent 781-383-4116 <a href="mailto:Cohassetboardofhealth@hotmail.com">Cohassetboardofhealth@hotmail.com</a>
Concord Townwide program	Wastewater mgmt services to all facilities, either by sewer or on-sites. On-site services include tech assistance / education / revolving fund. Environmentally sensitive areas will have inspections, loading criteria, and potentially failure criteria.	Board of Health	Mike Moore, Health Agent 978-318-3275 mmoore@concordnet.org
Tritown Health District Townwide program in Lenox, Lee, Stockbridge	Outreach/education to on-site owners: I/A information, technical assistance, tax credit information, information on proper maintenance	Board of Health	Peter Kolodziej, 413-243-5540. TriTownHealth@aol.com
Gloucester	Tracking and inspection of on-site systems. Private inspectors do inspections and any repairs, under Health Dep't oversight; property owners pay all costs. 155 I/A systems are tracked, as well as any upgrades or new construction.  More rigorous testing is done 7 priority areas, including deep pits to check on ground water.	Department of Health	Dave Sargent, Health Department 978-291-9771 dsargent@ci.gloucester.ma.us

## Introduction to Management Districts in Massachusetts

Town/Coverage	Purpose	Legal Authority	Contact
	Depending on results, full inspections can be required more frequently than every 3.5 years		
Hingham	Tracking of on-site systems through local permits: Town fee for installation of any on-site system, and annual permit fee for I/A systems.	Board of Health	Bruce Capman, BOH Director, 781-741-1466 capmanb@hth.ssec.org
Buttermilk Bay Watershed within the Towns of Plymouth, Wareham, Bourne  Townwide, tri-town nitrogen management strategy (Plymouth, Wareham, Bourne)	<p>Three towns adopted nitrogen loading goals and limits on growth recommended by the Buzzards Bay Project, in order to limit future nitrogen inputs to Buttermilk Bay.</p> <p>Bourne and Plymouth adopted zoning bylaw changes to increase minimum lot size to reduce future growth potential, and also adopted a water protection overlay district that included nitrogen limit goals.</p> <p>Wareham zoning was deemed adequate.</p> <p>Wareham and Bourne also extended sewerage around the bay. (Dr. Joseph Costa. Personal communication 1/23/03).</p>	<p>Intermunicipal agreement</p> <p>Local zoning and other bylaws</p>	<p>Dr. Joseph Costa, Executive Director, Buzzards Bay Project National Estuary Program 508-291-3625 x.19 jcosta@buzzardsbay.org</p>