

TOWN OF NANTUCKET BOARD OF HEALTH REGULATIONS

MISCELLANEOUS PROVISIONS

LOCAL REGULATIONS 67.00

67.00 MISCELLANEOUS PROVISIONS.

The regulations in this section 67.00 et seq. are generally applicable to all Board of Health regulations set forth in sections 62.00 to 66.00 et seq. and any other present or future regulations that the Board of health by resolution may designate (the regulations).

67.01 ENFORCEMENT.

The Health Agent shall investigate violations of these regulations and 62.00 through 66.00 et seq. and may take such actions as the agent deems necessary for the protection of the public health and the enforcement of these regulations.

If an investigation reveals a violation of these regulations, the Health Agent shall order toe owner to comply with the violated provision(s).

These orders shall be in writing and served in the following manner: (a) personally, by any person authorized to serve civil process. Or;(b) by any person authorized to serve civil process by leaving a copy of the order at the owner's/operator's last and usual place of abode, or (c) by sending the owner/operator a copy of the order by registered or certified mail, return receipt requested , if the owner / operator is within the Commonwealth, or; (d) if the owner's / operator's last and usual place of abode is unknown or outside the Commonwealth, by posting a copy of the order in a conspicuous place on or about the premises and by advertising it for three out of five consecutive days in one or more newspapers of general circulation on Nantucket.

67.02 HEARING – ADMINISTRATIVE APPEAL OF HEALTH AGENT'S ORDERS

The owner/operator to whom any order has been served may request a haring before the Board of health by filing with the Board within 7 days after the day the order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board shall set a time and place for such hearing and shall inform the owner/operator thereof in writing. The hearing shall be commenced not later than 30 days after the day on which the order was served. The Board, upon application of the owner/operator, may postpone the

date of the hearing for a reasonable time beyond such 30-day period if in the judgment of the Board the owner/operator has submitted a good and sufficient reason for such postponement. At the hearing the owner/operator shall be given an opportunity to be heard and to show why the order should be modified or withdrawn. After the hearing, the Board shall sustain, modify, or withdraw the order and shall inform the owner in writing of its decision. 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.

67.03 HEARING.

Every notice, order, or other record prepared by the Board in connection with the hearing shall be entered as a matter of public record in the office of the Board of Health.

If a written petition for a hearing is not filed with the Board within 7 days after the day an order has been served or if after the hearing, the order has been sustained in any part, each day's failure to comply with the order as issued or modified shall constitute an additional offense.

67.04 APPEAL.

Any person aggrieved by a decision of the Health Agent may seek relief there from within 30 days by appeal to the Board, which shall after the hearing, issue a final decision. Any person aggrieved by the final decision of the Board may seek relief there from within 30 days in any court of competent jurisdiction, as provided by the laws of the Commonwealth.

67.05 PENALTIES.

Any person who violates any provision of these regulations, or who fails to comply with any order by the Board for which a penalty is not provided in M.G.L. Ch 111 Section 31 or otherwise in any of the General Laws, shall, upon conviction, be fined \$300.00. Each day's failure to comply with any order by the Board shall constitute a separate offence.

The health Agent, as enforcing person may, as an alternative to the initiation of criminal proceedings, seek enforcement through non-criminal proceedings pursuant to M.G.L. c. 40 Section 21D and Chapter 1 Article II of the Town Code, in which case a penalty of \$300.00 shall be imposed for each violation of any provision of these regulations. Each day that a violation occurs shall be deemed a separate violation.

67.06 VARIANCE.

The Board of Health may vary any provision of these regulations with respect to any particular case, when in its opinion, (1) the enforcement

thereof would do manifest injustice, and (2) the applicant has proved that the same degree of protection can be achieved without strict application of the particular provision. All variances shall be considered at a hearing by the Board of Health and shall further comply with Board of Health regulations 90.00 et seq.

67.07 SEVERABILITY.

Each regulation shall be construed as separate to the end that if any regulation or sentence, clause, or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

67.08 EFFECTIVE DATE.

Regulations 62.00 et seq., 63.00 et seq. and 67.00 et seq. were adopted by vote of the Nantucket Board of Health, at its regularly scheduled meeting held on August 22, 1990 and are to be in full force and effect on and after August 24, 1990. Regulations 64.00 et seq., 65.00 et seq. and 66.00 et seq. were adopted by vote of the Nantucket Board of Health at its regularly scheduled meeting held on August 29 1990 and are to be in full force and effect on or after August 31 1990. Before said date, these regulations shall be published and a copy thereof be placed on file in the Board of Health offices.

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board, with notice as provided by law, on its own motion or by petition.

67.09 DISCLAIMER.

Issuance of a well, septic system or their permit under these regulations shall not be construed as a guarantee by the Board or its agents that the water, septic or disposal system permit will function satisfactorily nor that the water supply or disposal will be of sufficient quality or quality for its intended use.

NANTUCKET BOARD OF HEALTH

Bernard D, Grossman, Chairman

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