

**TOWN OF NANTUCKET BOARD OF HEALTH
REGULATIONS AFFECTING MADAKET**

LOCAL REGULATION 51.00

In order to preserve, protect, and manage the quality and supply of fresh water, and to protect the health and welfare of the inhabitants of the town of Nantucket, the following regulations are hereby adopted by the Board of Health of the Town of Nantucket, pursuant to authority granted by General Laws, Chapter 111, Section 31 on September 19, 1973, to be effective upon publication.

51.01 SUBJECT AREA and DEFINITIONS

- A. These Regulations shall be applicable in that part of the Town of Nantucket known as Madaket, more particularly described to be within the area bounded by the center line of Hither Creek; the center line of Cambridge Street; Madaket Harbor; Broad Creek; and the Atlantic Ocean.
- B. The term “Conventional System” shall mean any On-Site Subsurface Sewage Disposal System that is not a tight tank or Innovative/Alternative System.
- C. All other terms used in this Regulation shall be as defined in Local Regulation 50.00.

51.02 DISTANCES

- A. In any part of said area where the percolation rate is two minutes or less per inch, the distance between the soil absorption system, and any potable water supply well, shall be one hundred and fifty feet, notwithstanding the fact that such a system or well is located on an adjacent lot of land.
- B. The distance of a soil absorption system from a property line shall be fifty (50) feet. Where the property abuts a road way or other land restricted from building, the width of the road way or restricted land can be included as part of the 50-foot set-back requirement. No soil absorption system may be located closer than 10 feet to any property line.

- C. Every soil absorption system shall have a one hundred percent (100%) reserve area which shall be no closer than fifteen (15) feet to such a soil absorption system.

51.03 SYSTEM LOCATION ON LOT.

- A. Every on site system and potable water supply well shall be on the same lot of land as the building, dwelling, facility, or structure which they serve.

51.04 CERTIFICATE OF COMPLIANCE & WATER TEST.

- A. No well shall be connected to the water distribution system of any dwelling or other building without a Certificate of Compliance issued by the Board of Health that said potable well and water distribution system does not endanger the health of any potential user. Prior to the issuance of such a Certificate of Compliance, the applicant therefore shall provide the Board of Health with proof of a satisfactory bacteriological and chemical analysis of the water from such a well.
- B. *No Certificate of Compliance for On-site Subsurface Sewage Disposal Systems with one or more Nitrogen Reducing Technology component shall be issued without proof of the following filed with the Nantucket Health Department:*
 - a.) *Active Operation & Maintenance (O&M) Agreement detailing the following:*
 - 1. *service and monitoring of proper system operation*
 - 2. *Laboratory testing of effluent at least two times per year*
 - b.) *Deed notification of the presence of an Innovative/Alternative system*
 - c.) *Title 5 compliant System As-Built plan stamped by a design engineer or land surveyor*

51.05 Required Inspections within the Madaket Watershed Protection District

- A. *The owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be inspected by a licensed Title 5 inspector by March 1,*

2018, unless the System was inspected within five years prior to the effective date of this regulation. Inspection Reports shall be filed with the Nantucket Health Department.

- B. Notwithstanding the provisions of Paragraph A hereof, all Systems shall be inspected as required by Title 5, including: at or within two years of the time of property transfer, upon new construction or increase in design flow of the facility served by the system; upon evidence of breakout or other signs of hydraulic failure; or upon order of the Board of Health.*

51.06 Replacement of Conventional Systems within the Madaket Watershed Protection District

- A. The owner of any property located within the Madaket Watershed Protection District Zones A & B shall connect to the municipal sewer system in accordance with Local Regulation 69, if sewer becomes available.*
- B. The owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or other Innovative/Alternative system upon new construction, expansion of the facility served by the System, System expansion, any condition requiring repair or upgrade of the System, and/or transfers of property.*

51.07 Madaket Watershed Protection District hydraulic & technical On-site Subsurface Sewage Disposal System failure replacement requirements.

- A. Notwithstanding the provisions of Section 51.06, the owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or other Innovative/Alternative System within six (6) months of a system inspection showing that the System is exhibiting hydraulic failure.*
- B. Notwithstanding the provisions of Section 51.06, the owner of any property located within the Madaket Watershed Protection District Zones A & B, that is served by a Conventional System shall cause the System to be abandoned*

and replaced with a tight tank or other Innovative/Alternative System within twelve (12) months of a System inspection showing that the System has groundwater separation distances less than 6 feet.

C. Properties located within the Madaket Watershed Protection District Zones A & B demonstrating a separation distance from the bottom of the leach facility to ground water in excess of 15 feet may seek a variance from the Board of Health from these Regulations.

D. Nothing herein is intended to limit the authority of the Board of Health to require repair or replacement of any System at any time when the Board deems it necessary for the protection of public health, safety and the environment in accordance with Title 5 and/or any other Local Regulation.

51.08 SPECIAL VARIANCE

The Board of Health, in its sole discretion, may issue a variance from the strict application of these regulations, in accordance with the criteria set forth in Local Regulation 90.

51.09 ENFORCEMENT

A. Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this Regulation as set forth in Local Regulation 67.

51.10 Severability

A. In the event that any provision of these regulations is declared invalid or unenforceable for any reason, all other provisions will be unaffected and shall remain in full force and effect.

*Amendment Adopted: February 16, 2017
Amendment Effective date July 1, 2019*

Malcolm W. MacNab, MD, Ph.D, Chair

Stephen J. Visco, Vice-Chair

J.W. Rick Atherton, Member

Helene M. Weld, Member

James Cooper, Member