

**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 defined by the GIS map dated April 27, 2006 titled “Madaket Harbor Watershed Protection District” found at <https://nantucket-ma.gov/DocumentCenter/View/126/Madaket-Harbor-Protection?bidId=>
- 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. <https://www.nantucket-ma.gov/DocumentCenter/View/11206/50---Definitions-PDF>

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 (150) 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 roadway or other land restricted from building, the width of the roadway or restricted land can be included as part of the fifty (50) foot setback requirement. No part of the soil absorption system may be located closer than ten (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 soil absorption 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 potable 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 shall provide the Board of Health with proof of 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 components 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 HARBOR WATERSHED PROTECTION DISTRICT

- A. The owner of any property located within the Madaket Harbor Watershed Protection District Zones A & B 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.
- C. All conventional septic systems located within the Madaket Harbor Watershed protection District Zones A & B shall be inspected every five years from the date of this regulation when first amended, February 16, 2017. Inspection reports must be filed with the Nantucket Health & Human Services Department.

51.06 REPLACEMENT OF CONVENTIONAL SYSTEMS WITHIN THE MADAKET HARBOR WATERSHED PROTECTION DISTRICT

- A. The owner of any property located within the Madaket Harbor Watershed Protection District Zones A & B shall connect to the municipal sewer system in accordance with Local Regulation 69, if sewer becomes available. <https://www.nantucket-ma.gov/DocumentCenter/View/646/69---Mandatory-Sewer-Connections-PDF>
- B. The owner of any property located within the Madaket Harbor 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 Department of Environmental Protection approved Nitrogen Reducing Technology Wastewater Disposal 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.
- C. No system serving New Construction as defined in Local Regulation 50.00 shall be designed to receive or shall receive more than 110 gallons of design flow per day per 10,000 square feet of contiguous lot area.

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 Harbor Watershed Protection District Zones A & B served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or a Department of Environmental Protection approved Nitrogen Reducing Technology Wastewater Disposal 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 Harbor Watershed Protection District Zones A & B served by a Conventional System shall cause the System to be abandoned and replaced with a tight tank or a Department of Environmental Protection approved Nitrogen Reducing Technology Wastewater Disposal 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 Harbor 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 section 51.07.
- 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

- A. 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.
<https://www.nantucket-ma.gov/DocumentCenter/View/9951/90---Special-Variences-PDF>

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.
<https://www.nantucket-ma.gov/DocumentCenter/View/644/67---Miscellaneous-Provisions-PDF>

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

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

Stephen J. Visco, Vice-Chair

J.W. Rick Atherton, Member

Helene M. Weld, Member

James Cooper, Member

Amendment Effective date July 1, 2019

Stephen J. Visco, Chair

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

Rita Higgins, Member

Helene M. Weld, Member

James Cooper, Member

Amendment Adopted: July 16, 2020
Amendment Effective date July 16, 2020

Stephen J. Visco, Chair

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

Meredith Lepore, Member

Melissa Murphy, Member

James Cooper, Member