

Adopted by the Nantucket Board of Health May 21, 2015

As authorized by Massachusetts General Laws, Chapter 111, Section 31

TOWN OF NANTUCKET BOARD OF HEALTH

THE MADAKET TIGHT TANK POLICY

LOCAL REGULATION 49.00

49.01 Purpose

Whereas ongoing research by the Town of Nantucket in cooperation with the Commonwealth of Massachusetts's Department of Environmental Protection (MassDEP) and in coordination with the University of Massachusetts Dartmouth School of Marine Science and Technology (SMASST) under the Massachusetts Estuaries Program (MEP), has documented increased levels of nutrient loading due to on-site wastewater disposal systems with resultant degradation of water quality in embayments, estuaries and associated water resources within the identified Madaket Harbor Watershed, this Regulation is promulgated to maintain and/or restrict additional effluent flows which further degrade the Watershed that is the subject of the MEP through increased nitrogen loading, In addition, this geographical location is located in an area subject to severe erosion with subject areas within the Velocity Zone. There are no plans to extend municipal sewer in this area due to the technical issues of physically constructing infrastructure over Millie's Bridge and the potential damage to infrastructure located in areas subject to erosion. . This Watershed area, identified as the Madaket Harbor Watershed, and more specifically the area identified as those streets located over Millie's Bridge and as shown on the attached Figure 1, which becomes a part of this Regulation and is identified as the Madaket Tight Tank District. This Regulation details the conditions under which a tight tank may be required in order to reduce nitrogen loading into this well documented, nitrogen sensitive MEP area, as well as provide a last resort for wastewater disposal due to no other feasible available alternative for wastewater disposal as determined by the Board of Health

If a party currently owns and/or operates an on-site wastewater disposal system located on property that is shown on Figure 1, Madaket Tight Tank District, which the Board has, determined requires an upgrade pursuant to 310 CMR 15.00 (Title 5) and as defined in the Board of Health Regulations under Local Regulations and is located within the above-referenced geographic location, the Nantucket Board of Health has determined that the property owner may be required to utilize a tight tank in lieu of a conventional Title 5 System and/or Innovative Alternative (I/A) System in order to reduce nutrient degradation to the Watershed, as well as provide a last resort alternative to wastewater disposal.

The Board of Health reserves the right to require any property owner with a failed septic system, in this identified area where no future municipal sewer is being considered and/or where connection to the municipal sewer system is not technically feasible to apply to the BOH for a tight tank in lieu of a conventional or Innovative/Alternative on-site system. All upgrades/repairs must be approved and permitted by the Health Department and subsequently MassDEP, prior to installation. In addition, the Board of Health reserves the right to maintain jurisdiction over the maintenance of the tight tank system, as well

as the right to pass over land where a tight tank system is installed under these Regulations in order to inspect said system.

The Nantucket Board of Health determines the ability or inability of the on-site wastewater disposal systems to meet this Regulation and ultimately determines if the parcel qualifies under this Regulation through an inspection paid for by the property owner.

Tight tanks will no bet allowed for new construction or increases in design flow, but rather only as a last resort in this identified area as shown on Figure 1.

49.02 Definitions

a. Board of Health

The Town of Nantucket Department with local jurisdiction of on-site wastewater systems in addition to all other health-related issues.

b. Comprehensive Wastewater Management Plan/CWMP Update

The Town's 20-year wastewater planning document completed according to the Department of Environmental Protection Bureau of Municipal Facilities Guide to Comprehensive Wastewater Management Planning, January 1996". The CWMP Update is a revision to the 2004 Report under 2013/2014 current conditions.

c. Hydraulic Failure

An on-site wastewater system failure due to ponding of surface water, back-up of sewage into the dwelling and/or evidence of flooding within the wastewater system's distribution box, septic tank, cesspool or metal tank.

d. Madaket Harbor Watershed

The area constituting the Watershed for Madaket Harbor/Hither Creek, as delineated on a map entitled "Madaket Harbor Watershed with Sub-Areas," Nantucket GIS, dated January 13, 2003.

e. Madaket Tight Tank District

The geographic area shown on a map entitled, Figure 1 Madaket Tight Tank District, included as part of this Local Regulation

f. Massachusetts Department of Environmental Protection

The Massachusetts Department of Environmental Protection (MassDEP) is a name used by for the agency charged with proposing and enforcing environmental law.

g. Massachusetts Estuary Program (MEP)

The Massachusetts DEP and the UMASS/Dartmouth School of Marine Science and Technology (SMAST) collaborating together with Coastal Zone Management, the Cape Cod Commission and several municipalities to classify the nitrogen sensitivity of southeastern Massachusetts's coastal bays and estuaries. SMAST technical experts work with MassDEP to evaluate the nitrogen sensitivity through comprehensive water quality testing, quantitative TMDL (Total Maximum Daily Load) modeling, and preparation of technical reports allowing communities to consider how implementation of nitrogen management scenarios within watersheds will influence water quality in embayments. The MEP has identified three geographical regions as Nitrogen Sensitive due to on-site wastewater disposal systems on Nantucket; 1) Madaket Harbor Watershed; 2) Nantucket Harbor Watershed; and 3) Hummock Pond Watershed.

h. Municipal Sewer

The physical infrastructure that collects, treats and discharges wastewater through a public system.

i. Nantucket

"Nantucket" encompasses the land and water of the Town and County of Nantucket including Tuckernut and Muskegat.

j. Nitrogen Sensitive

A physical environment deemed sensitive to the discharge of pollutants, mainly nitrogen, from on-site wastewater disposal system discharge. Water resource areas whose physical characteristics and water quality testing detail intolerance to nitrogen loading and are documented in the MEP Reports as showing a decline in habitat. The outcome is a determination of where nutrient reductions are needed to preserve or restore long-term water quality, which are mandated through a TMDL.

k. Needs Area

Geographic delineation of land/property area that has been determined to be unsustainable in the long-term with on-site wastewater disposal systems in the Town of Nantucket's Comprehensive Wastewater Management Plan.

l. Technical Failure/Nantucket Local Regulations

An on-site wastewater system failure due to diminished distance to groundwater; less than 6 feet in designated watershed protection zones; less than 5 feet in non-watershed protection zones/within 100 feet to private drinking water well, missing or undersized system components and leach field within 100 feet of private drinking water well.

m. Title 5

The environmental code in Massachusetts governing on-site wastewater systems in Massachusetts found at 310 CMR 15.00.

n. Total Maximum Daily Load / TMDL

"Total Maximum Daily Load / TMDL" is a calculation of the maximum amount of a pollutant that a waterbody can receive and still safely meet water quality standards.

o. Town

"Town" means the bodies politic created by statute (of the Commonwealth of Massachusetts General Court) to govern said lands and waters.

p. Vertical Separation

According to 310 CMR 15.1212 Depth to Groundwater, refers to the distance between the bottom of the leaching facility or soil absorption system and the groundwater. Title 5 of the Environmental Code required a four-foot separation.

49.03 Modifications

No part of these Regulations may be modified and/or rescinded without a majority vote of the Board of Health.

49.04 Enforcement

Once an inspection is finalized and it has been determined that a system in failure meets the requirements of this Regulation, and without limiting any other available remedies or penalties, the Board of Health may punish any person or entity that violates these regulations by assessing a penalty of three hundred dollars (\$300.00). Each day or part thereof which violation occurs or continues shall constitute a separate offense. As an alternative to criminal prosecution or civil action, the non-criminal disposition procedure set forth in M.G.L. c40, Section 21D, and Sections 1-2,1-3,1-4,1-5, and 1-6 of the Code of the Town of Nantucket may be used with a penalty of \$300.00 for each violation, each day or part thereof during which such violation occurs or continues constitutes a separate offense. The Health Director or Assistant Health officer are hereby empowered to enforce this Section 49.00