



MEETING POSTING

TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25

All meeting notices and agenda must be filed and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays)

RECEIVED

2026 MAR 12 AM 10:19
NANTUCKET TOWN CLERK
Posting Number:T 200

Committee/Board/s	Affordable Housing Trust
Day, Date, and Time	Monday, March 16, 2026, at 4:00 PM
Location / Address	REMOTE PARTICIPATION <i>via ZOOM (See Below)</i>
Signature of Chair or Authorized Person	Dylan Metsch-Ampel Deputy Housing Director

WARNING: IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF THE MEETING POSTING IS NOT IN COMPLIANCE WITH THE OPEN MEETING LAW STATUTE, NO MEETING MAY BE HELD!

AGENDA FOR MONDAY, MARCH 16, 2026

THE MEETING WILL BE AIRED AT A LATER TIME ON THE TOWN GOVERNMENT'S YOUTUBE CHANNEL AT <https://www.youtube.com/channel/UC-sgxA1fdoxteLNzRAUHIxA>

ZOOM LINK TO VIRTUALLY ATTEND MEETING:
<https://us06web.zoom.us/j/87463497410?pwd=ybBZjqjbc5SqxJ3am70qis7KIO7whK.1>

Meeting ID: 874 6349 7410

Passcode: 876586

- I. ***CALL TO ORDER***
- II. ***JOINT MEETING WITH AFFORDABLE HOUSING TRUST, BOARD OF HEALTH, AND PLANNING BOARD REGARDING BOARD OF HEALTH HUMMOCK POND WATERSHED AND WELLHEAD PROTECTON DISTRICT REGULATION AMENDMENTS***
- III. ***ADJOURNMENT***



AGENDA PROTOCOL

For all Town of Nantucket Boards, Committees, Commissions, Work Groups, Councils and Trusts
(herein collectively referred to as "Committees" in this document)

Roberts Rules: Town of Nantucket Committees follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Committees. At the Committee's discretion, matters raised under Public Comment may be directed to Town Administration and/or appropriate departmental staff, or may be placed on a future agenda, allowing all viewpoints to be represented before the Committee takes action, if any. Except in emergencies, the Committee will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Committee to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with the United States Constitution and the Massachusetts Declaration of Rights.

The agenda for regular Committee meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Committee to take up first. This time is reserved for speakers to address the Committee on matters that are not related to any other Agenda item. If a speaker wishes to address the Committee on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.

All speakers are encouraged to present their remarks in an orderly and peaceable manner, without disruption to other speakers.

All remarks will be addressed through the Chair of the meeting.

The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not protected under the United States Constitution and the Massachusetts Declaration of

Rights because it constitutes true threats, incitement to imminent lawless conduct, or engages in conduct that disrupts other speakers.

Each speaker may not exceed three (3) minutes during any Public Comment portion of the meeting.

Disclaimer: Public Comment is not a time for debate or response to comments by the Committee. Comments made during the Public Comment period do not reflect the views or positions of the Committee. Because of free speech principles, the Committee does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

Unanticipated Business: Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Committee welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at their sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Committee Members may have questions on the clarity of the information presented. The Committee will hear any staff input and then deliberate on a course of action.

Committee Report and Comment: Individual Committee Members may have matters to bring to the attention of the Committee during a meeting. If the matter contemplates action by the Committee, Committee Members will consult with the Chair and/or appropriate Town officials or employees in advance and provide any needed information by applicable Committee deadlines and/or schedule the matter for a future Committee meeting. Otherwise, except in emergencies, the Committee will not normally take action on Committee Comment.

Approved: March 27, 2024



Trust Agenda Brief

Agenda Item	II
Date	March 16, 2026

Submitter/Applicant

Dylan Metsch-Ampel

Subject

Joint Meeting with Affordable Housing Trust, Board of Health, and Planning Board Regarding Board of Health Hummock Pond Watershed and Wellhead Protection District Regulation Amendments

Executive Summary

This is a joint meeting with the Planning Board and Board of Health (BOH) to discuss the BOH's Hummock Pond Watershed and Wellhead Protection District regulation amendments. The joint meeting was requested by the Planning Board.

Staff Recommendation

Review the letter drafted by the Housing Department and endorsed and sent by the Select Board to the BOH. The letter contains recommendations and proposals for tailoring the regulation amendments so that they still address environmental concerns without having detrimental impacts on the island's housing landscape.

Background Discussion

In June 2025, the BOH implemented a temporary moratorium on septic variance requests in nitrogen sensitive areas. During the moratorium, the BOH began considering amendments to the Hummock Pond Watershed and Wellhead Protection District regulations. The proposed amendments would eliminate the septic variance in the Hummock Pond Watershed and Wellhead Protection District. They would also require Innovative/Alternative (I/A) septic systems in the case of system failure, new construction, or property transfer. I/A septic systems can range in cost from \$40,000 to \$200,000.

Given the potential impact these amendments could have on Nantucket's housing landscape, including Town- and Trust-owned properties, Select Board member Tom Dixon requested a presentation on the potential impacts from the Housing Department.

Dylan Metsch-Ampel presented to the Select Board in January, and at their request drafted a letter (attached) laying out concerns and recommendations for the Select Board to sign and send to the BOH. The Housing Department collaborated with the Land and Water Council on the letter to put together recommendations that are tailored to address both environmental and housing concerns. The recommendations are laid out in the attached letter. Please review ahead of the Joint Meeting.

Attachments

1. January 15, 2026 letter from the Select Board to the Board of Health
2. Existing 2010 Hummock Pond Watershed Regulations
3. Rough Draft Updated Hummock Pond Watershed Regulations (redline & comments)
4. Clean Draft Updated Hummock Pond Watershed Regulations
5. Existing 1995 Wellhead Protection District Regulations
6. Rough Draft Updated Wellhead Protection District Regulations (redline & comments)
7. Clean Draft Updated Wellhead Protection District Regulations

Town and County of Nantucket
Select Board • County Commissioners

Dawn E. Hill, Chair
Thomas M. Dixon
Matt Fee
Malcolm W. MacNab
Brooke Mohr



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

January 15, 2026

Ann Smith, Chair
Board of Health
131 Pleasant Street
Nantucket, MA 02554

Dear Chair Smith and Board of Health Members,

At the January 7th Select Board meeting, Deputy Housing Director Dylan Metsch-Ampel provided a review of the potential impacts the Board of Health's proposed amendments to its septic system regulations may have on Affordable Housing Trust and Town-owned housing properties, as well as the Island's broader housing landscape. He also shared a set of recommendations for adjusting the amendments that were developed in collaboration with the Nantucket Land and Water Council (NLWC), and that are designed to increase the use of Innovative/Alternative (I/A) septic systems without placing an undue burden on year-round residents.

We ask that you take the recommendations below into consideration as you evaluate amending Board of Health Regulations Chapter 382 "Wellhead Protection District". We understand that the Board of Health is updating Chapter 288 "Hummock Pond Watershed" to be consistent with the Island's other watershed protection zones. Furthermore, a pending sewer project (Somerset Needs Area sewer extension) would mitigate the impact of the proposed regulation changes on year-round residents in the Hummock Pond Watershed.

The recommendations we endorse are to:

- Provide hardship waivers for year-round residents who are unable to afford the increased cost of an I/A septic system.
- Extend the Septic Loan Program to provide financial assistance to year-round residents who will be required to upgrade to an I/A septic system due to property transfers or new construction.
- Establish financial assistance for year-round residents who demonstrate need that provides a grant and/or a 0% or low-interest loan to finance maintenance of an I/A septic system.
- Allow nitrogen loading credits in exchange for an I/A septic system and a year-round deed restriction on the property.

We understand the importance of I/A septic systems. Indeed, their installation is critical for the long-term health of our island's water resources and residents. These recommendations are intended to maintain your current amendments' goal of increasing I/A septic systems while ensuring that they do not place an unintentional burden on year-round residents or produce unintentional barriers to creating and maintaining year-round housing. Moreover, by maintaining the nitrogen loading credit variance while adding a requirement for a year-round deed restriction, the Board of Health will be able to address two of the island's most critical issues at once: the environment and housing.

Finally, these recommendations are consistent with the Select Board's Strategic Plan, which emphasizes the importance of advancing both housing and environmental stewardship. By prioritizing year-round housing deed restrictions while preserving a thoughtful variance process, this approach allows the Town to be a leader in both areas - ensuring that housing and environmental goals reinforce one another rather than compete.

One of the Strategic Plan's environmental goals is, "Implement the island-wide, long-term water quality management plan, which addresses ponds, harbors, stormwater, and wastewater with specific ways/methods to measure improvement." Some of the Strategic Plan's housing goals are: "evaluate the potential for a coordinated housing effort for public employees across municipal operations," and "promote affordable and attainable home ownership opportunities for the year-round community, which will meet housing needs at all income levels and lessen the burdens of government." Housing and the environment can be competing priorities in our community. However, as exemplified by the collaboration between the NLWC and Housing Department, these recommendations create a framework for simultaneously advancing both housing and environmental goals.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Dawn E. Hill
Select Board Chair

Chapter 288

HUMMOCK POND WATERSHED

ARTICLE I Inspection and Upgrading of Substandard On-Site Sewage Disposal Systems

- § 288-1. Purpose and authority.
- § 288-2. Definitions.
- § 288-3. Deadline for inspection of existing systems.
- § 288-4. Inspections.
- § 288-5. Repairs to failed systems.
- § 288-6. Inspection evaluation period and report.
- § 288-7. Exemptions.

§ 288-8. Enforcement.

ARTICLE II Septic Wastewater Flow Limitations

- § 288-9. Purpose.
- § 288-10. Definitions.
- § 288-11. Effluent flow restrictions.
- § 288-12. Amendments.
- § 288-13. Violations and penalties; enforcement.
- § 288-14. Authority.

[HISTORY: Adopted by the Town of Nantucket as indicated in article histories. Amendments noted where applicable.]

TOWN REGULATIONS REFERENCES

Administration of Board of Health regulations; definitions — See Ch. 223.

Sewage disposal and treatment — See Ch. 332.

Septic systems — See Ch. 327.

Sewers — See Ch. 336.

ARTICLE I

**Inspection and Upgrading of Substandard On-Site Sewage Disposal Systems
[Adopted by the Board of Health 9-2-2010¹]****§ 288-1. Purpose and authority.**

- A. Purpose. Whereas ongoing research by the Town of Nantucket in cooperation with the Commonwealth of Massachusetts Department of Environmental Protection has documented increasing levels of nutrient loading in the Hummock Pond watershed system, these regulations are promulgated to further limit said nutrients and other sources of contamination loading, and to protect and enhance the quality of groundwater flowing into and affecting the waters of Hummock Pond.
- B. Authority. These regulations are adopted by the Town of Nantucket's Board of Health as authorized by MGL c. 111, § 31.

§ 288-2. Definitions.

As used in this regulation, the following terms shall have the meanings indicated:

HUMMOCK POND WATERSHED PROTECTION DISTRICT — The area constituting the watershed for Hummock Pond as delineated on a map entitled "Hummock Pond Watershed," Nantucket GIS, dated July 1, 2010.

§ 288-3. Deadline for inspection of existing systems.

- A. Properties utilizing in-ground soil absorption systems located within Zone A of the Hummock Pond Watershed Protection District as established by these regulations, and as demonstrated on a map titled "Hummock Pond Watershed Protection District," shall have the existing soil absorption system(s) inspected by a Massachusetts-licensed system inspector prior to June 30, 2015. Said inspection report shall be recorded with the Nantucket Health Department within 21 days of the completed inspection.
- B. Properties utilizing in-ground soil absorption systems located within Zone B of the Hummock Pond Watershed Protection District as established by these regulations, and as demonstrated on a map titled "Hummock Pond Watershed Protection District," shall have their existing soil absorption system(s) inspected by a Massachusetts-licensed system inspector prior to June 30, 2015. Said inspection report shall be recorded with the Nantucket Health Department within 21 days of the completed inspection.

§ 288-4. Inspections.

- A. All systems shall be inspected to determine the presence and/or absence of hydraulic failure and depth to groundwater. Depth to groundwater shall be determined by direct observation of highest groundwater elevation (including seasonal perched and tidally influenced groundwater) in a test pit excavation, unless an alternative method for accurately determining the depth to groundwater has been approved in writing by the Health Director.
- B. The Health Director may, based on unique development conditions or due to the proximity of multiple systems within a limited geographic area, substitute a preapproved groundwater monitoring protocol for test pit excavation. This monitoring protocol shall require at a minimum:
 - (1) Data collected over a twelve-month period.

1. Editor's Note: The Board of Health approved the codification of its regulations 6-16-2022.

- (2) A minimum of three wells offset to define groundwater flow direction as well as depth.

§ 288-5. Repairs to failed systems.

- A. The owner of a system meeting hydraulic failure criteria pursuant to these regulations as stated on the Town of Nantucket Board of Health septic system inspection report/certificate of compliance form shall bring the system into compliance with all applicable state and local regulations within 60 days of the date of the inspection.
- B. The owner of a system meeting failure criteria, exclusive of hydraulic failure, pursuant to these regulations as stated on the Town of Nantucket Board of Health septic system inspection report/certification of compliance form shall bring the system into compliance with all state and local regulations within 18 months of the adoption of the assessment report required in § 288-6 and/or within 30 months of the expiration date of Zone A and B inspections.

§ 288-6. Inspection evaluation period and report.

- A. Within three months of the inspection expiration date of Zones A and B, the Health Department shall tabulate and publish the inspection results.
- B. Within six months of the inspection expiration date of Zones A and B, the Health Department shall provide a preliminary assessment report to the Board of Health. This report shall include a brief evaluation of treatment options to effectuate implementation of best available engineering design for all required repairs/upgrades.
- C. No later than six months following the expiration date of Zone B inspections, the Board of Health shall adopt the Hummock Pond Watershed Protection Area Assessment Report, including recommendations.

§ 288-7. Exemptions.

The following are exempt from the requirements of these regulations:

- A. Properties whose on-site sewage disposal design is documented to be based on test pit and percolation testing observed by the Board of Health after June 1, 2008.
- B. Properties which have been inspected and have both a Town of Nantucket Board of Health septic system inspection report and a certificate of compliance form filed with the Nantucket Health Department and dated within 24 months prior to promulgation of these regulations are exempt from inspection and compliance standards as set forth in these regulations.

§ 288-8. Enforcement.

- A. Enforcement of these regulations shall be effected through Chapter 223, Board of Health Administration, Article II, Enforcement of Regulations, of the Town Regulations.
- B. These regulations and any amendments thereto shall become effective upon the date of publication.

ARTICLE II
Septic Wastewater Flow Limitations
[Adopted by the Board of Health 9-2-2010²]

§ 288-9. Purpose.

Whereas ongoing research by the Town of Nantucket in cooperation with the Commonwealth of Massachusetts's Department of Environmental Protection has documented increasing levels of nutrient loading with resultant degradation of water quality within the Hummock Pond watershed system, these regulations are promulgated to maintain and/or restrict additional effluent flows which may further degrade Hummock Pond and North Head of Hummock Pond water quality through increased nutrient loading.

§ 288-10. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

HUMMOCK POND WATERSHED PROTECTION DISTRICT — The area constituting the watershed for Hummock Pond and North Head of Hummock Pond as delineated on a map entitled "Hummock Pond Watershed," Nantucket GIS, dated July 1, 2010.

NITROGEN-SENSITIVE AREA — Areas that have been determined by the Nantucket Board of Health to be particularly sensitive to the discharge of pollutants from on-site sewage disposal systems, including nitrogen, nitrogen as nitrate, phosphorous and pathogens. Such areas are depicted on a plan entitled "Board of Health Nitrogen Sensitive Areas," which is hereby incorporated by reference herein, and as such warrant the imposition of the loading restrictions set forth within these regulations.

§ 288-11. Effluent flow restrictions.

- A. All properties currently existing or created which are served by in-ground septic systems and located within the Hummock Pond Watershed Protection District as defined within these regulations shall not be constructed or reconstructed to receive design flows over 110 gallons of effluent for every 10,000 feet of lot area. The use of abutting roads and rights-of-way to a property shall not be considered in calculating the permissible effluent flows for the subject property.
- B. Existing developed properties shall be allowed to repair/replace existing subsurface disposal systems for existing flows determined by a qualified licensed Massachusetts professional with nutrient-reducing technologies or technologies acceptable to the Nantucket Board of Health as deemed appropriate.
- C. Properties located within Zone A of the Hummock Pond Watershed Protection District as identified on a map entitled "Hummock Pond Watershed," Nantucket GIS, dated July 1, 2010, and connected to a municipal water service shall not be exempted from compliance with Subsection A of this section.

§ 288-12. Amendments.

No part of these regulations may be modified and/or rescinded without a majority vote of Town of Nantucket Board of Health.

2. Editor's Note: The Board of Health approved the codification of its regulations 6-16-2022.

§ 288-13. Violations and penalties; enforcement.

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 \$300. Each day or part thereof on which violation occurs or continues shall constitute a separate offense. As an alternative to criminal prosecution or civil action, the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, Article II, of the Code of the Town of Nantucket may be used with a penalty of \$300 for each violation, each day or part thereof during which such violation occurs or continues constituting a separate offense. The Health Director and Assistant Health Officer are hereby empowered to enforce this Chapter 288, Article II.

§ 288-14. Authority.

These regulations are adopted by the Town of Nantucket's Board of Health as authorized by MGL c. 111, § 31.

§ 288-1. Purpose and authority.

§ 288-2. Subject area

§ 288-2.1 Definitions

§ 288-3. Effluent Flow Limitations

§ 288-4. Separation distances for soil absorption systems

§ 288-5. Required inspections within Hummock Pond Watershed Protection District

§ 288-5.1. Replacement of conventional systems within Hummock Pond Watershed Protection District

§ 288-5.2. Hummock Pond Watershed Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

§ 288-6. Certificate of Compliance

§ 288-7. Special Variance

§ 288-8. Enforcement.

§ 288-9. Severability

TOWN REGULATIONS REFERENCES

Administration of Board of Health regulations; definitions — See Ch. 223.

Septic systems — See Ch. 327.

Sewage disposal and treatment — See Ch. 332.

Sewers — See Ch. 336.

§ 288-1. Purpose and authority.

A. Purpose. Whereas ongoing research by the Town of Nantucket in cooperation with the Commonwealth of Massachusetts's Department of Environmental Protection ("MassDEP") has documented increasing levels of nutrient loading in the Hummock Pond watershed system leading to a severe degree of eutrophication of Hummock Pond, these regulations are promulgated to maintain and/or restrict additional effluent flows which may further degrade the water quality of Hummock Pond and North Head of Hummock Pond through increased nutrient loading. These regulations are adopted by the Town of Nantucket's Board of Health as authorized by G.L. c. 111, § 31.

§ 288-2. Subject area

These regulations shall be applicable in that part of the Town of Nantucket known as the area constituting the Hummock Pond Watershed Protection District as delineated on a map entitled "Hummock Pond Protection", on Town of Nantucket GIS Maps, dated July 17, 2012 or as amended by MassDEP. GIS Maps are available for review on-line at <https://www.nantucket-ma.gov/151/GIS-Maps>

§ 288-2.1 Definitions

A. As used in this regulation, the following terms shall have the meanings indicated:

Acre

A unit of land measure equal to 40,000 square feet which is considered a building acre in accordance with standard real estate practices.

Conventional Septic System - On-site wastewater treatment consisting of septic tank and a trench or bed subsurface soil absorption system, which relies on gravity to distribute effluent, and is not a tight tank or innovative alternative system.

Developed Properties

Properties with existing structures and/or associated disposal systems

Nitrogen Reducing Technology

A MassDEP approved I/A treatment system capable of reducing nitrogen in wastewater to a minimum of 19 mg/liter from an average influent concentration of 40 mg/liter

Innovative/Alternative (I/A) System

Any on-site wastewater disposal system or part of one that differs from the design or construction of a conventional or standard septic system and/or tight tank. A conventional, or standard, system has a septic tank, distribution box or dosing mechanism, a soil absorption system (SAS), and a reserve area.

B. All other terms used in this regulation shall be as defined in Chapter **223**, Board of Health Administration, Article **III**.

Soil Absorption System (SAS) - Part of an on-site system: the area of ground and system of subsurface pipes or chambers into which partially treated wastewater from the septic tank or I/A system is discharged for final treatment and absorption by soil. Also called Leach Field, Drainfield or Absorption Field.

§ 288-3. Effluent Flow Limitations

A. ~~All properties currently existing or created~~ Existing develop properties which are served by in-ground septic systems and located within the Hummock Pond Watershed Protection District as defined within these regulations shall not be constructed or reconstructed to receive design flows over 110 gallons per day of effluent for every 10,000 feet of lot area. Incorporation of a MassDEP approved nitrogen-reducing technology wastewater disposal system shall not increase design flows above 110 gallons per day of effluent for every 10,000 feet of lot area. The use of area within abutting roads and rights-of-way next to a property shall not be included in calculating the permissible effluent flows for the subject property.

B. Properties improved with existing dwellings and associated disposal systems, Existing developed properties shall be allowed to maintain existing design flows permitted under prior state and/or local Codes when performing any upgrades or maintenance as required hereunder or as otherwise required by the Board. .

C. Properties located within the Hummock Pond Watershed Protection District and connected to a municipal water service shall not be exempted from compliance with Subsection **A** of this section.

§ 288-4. Separation distances for soil absorption systems

All soil absorption systems for conventional systems must have a separation distance of at least six feet to groundwater. Nitrogen-reducing technology wastewater disposal systems must have a separation distance of at least five feet of separation to groundwater.

§ 288-5. Required inspections within Hummock Pond Watershed Protection District

A. The owner of any property located within Zones A and/or B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be inspected by a licensed Title 5 Inspector every 5 years from the date of April 1, 2026, unless the system was inspected within five years prior to the effective date of this regulation in which case, the first inspection following adoption of these Regulations shall be five years after the last inspection was performed. The inspection is to be witnessed by the Board of Health or its agent and inspection report(s) shall be filed with the Nantucket Health Department within 30 days of the inspection.

B. Notwithstanding the provisions of Subsection **A** hereof, all systems shall be inspected as required by Title 5, including:

- (1)** At the time of property transfer;
- (2)** Upon new construction or increase in design flow of the facility served by the system;
- (3)** Upon evidence of breakout or other signs of hydraulic failure; or
- (4)** Upon order of the Board of Health.

§ 288-5.1 Replacement of conventional systems within Hummock Pond Watershed Protection District.

A. The owner of any property located within Zone A and/or Zone B of the Hummock Pond Watershed Protection District served by a conventional system shall either abandon the system and connect to the municipal sewer system in accordance with Chapter **332**, Sewage Disposal and Treatment, Article **II**; or

B. Cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not ~~exceed 440 gallons per day per acre of design flow~~ 110 gallons per day of effluent for every 10,000 feet of lot area, upon occurrence of any of the following events:

- **System Failure:** In the event of system failure documented by a Title 5 Inspection Report and Town of Nantucket Septic System Inspection Report, the entire on-site sewage disposal system shall be brought into full compliance with all applicable State and Local Regulations;
- **New Construction or Structural Alteration or System Expansion:** Any proposal for new construction, as defined in Board of Health Regulation Chapter 223, Article III – *Terms Defined*, on a property with a conventional system. Any property that does not meet current nitrogen loading limitations shall upgrade to the maximum extent feasible; and/or
- **Property Transfer:** For property transfers, as defined in Title 5, for properties located within Zones A and B of the Hummock Pond Watershed Protection District.

Systems exceeding the flow limitations set forth herein shall not be approved or permitted. Nitrogen loading credits for greater effluent flows will not be permitted.

*Existing developed properties shall be allowed to maintain existing design flows as described in Section 288-3 (B) above.

§ 288-5.2. Hummock Pond Watershed Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

A. Notwithstanding the provisions of § 288-5.1, the owner of any property located within Zones A and B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 110 gallons per day per 10,000 s.f. of design flow within six months of a system inspection showing that the system is exhibiting hydraulic failure.

B. Notwithstanding the provisions of § 288-5.1, the owner of any property located within Zones A and B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 110 gallons per day per 10,000 s.f. of design flow within 2 years of a system inspection showing that the system has groundwater separation distances less than six feet.

C. 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.

§ 288-6. Certificate of Compliance

A. No certificate of compliance for on-site subsurface sewage disposal systems with one or more nitrogen-reducing technology wastewater disposal system components shall be issued without proof of the following filed with the Nantucket Health Department:

(1) Active operation and maintenance (O&M) agreement detailing the following:

(a) Service and monitoring of proper system operation;

(b) Laboratory testing of effluent at least two times per year;

(2) Deed notification of the presence of an innovative/alternative system; and

(3) Title 5 compliant system as-built plan stamped by the engineer responsible for designing the system. ~~a design engineer or land surveyor.~~ **the system designer.**

§ 288-7. 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 Chapter **223**, Board of Health Administration, Article **I** and § **223-9**. **The Board may, in its discretion, grant a requested waiver if necessary to avoid undue hardship for properties subject to conditions set forth by the Nantucket Affordable Housing Trust (AHT).** ~~an affordable housing restriction.~~



§ 288-8. Enforcement.

Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this regulation as set forth in Chapter **223**, Board of Health Administration, Article **II**.

§ 288-9. ~~Purpose.~~ Severability

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.

Effective Date 4/1/2026

§ 288-1. Purpose and authority.

§ 288-2. Subject area

§ 288-2.1 Definitions

§ 288-3. Effluent Flow Limitations

§ 288-4. Separation distances for soil absorption systems

§ 288-5. Required inspections within Hummock Pond Watershed Protection District

§ 288-5.1. Replacement of conventional systems within Hummock Pond Watershed Protection District

§ 288-5.2. Hummock Pond Watershed Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

§ 288-6. Certificate of Compliance

§ 288-7. Special Variance § 288-8. Enforcement.

§ 288-9. Severability

TOWN REGULATIONS REFERENCES

Administration of Board of Health regulations; definitions — See Ch. 223.

Septic systems — See Ch. 327.

Sewage disposal and treatment — See Ch. 332.

Sewers — See Ch. 336.

§ 288-1. Purpose and authority.

A. Purpose. Whereas ongoing research by the Town of Nantucket in cooperation with the Commonwealth of Massachusetts's Department of Environmental Protection ("MassDEP") has documented increasing levels of nutrient loading in the Hummock Pond watershed system leading to a severe degree of eutrophication of Hummock Pond, these regulations are promulgated to maintain and/or restrict additional effluent flows which may further degrade the water quality of Hummock Pond and North Head of Hummock Pond through increased nutrient loading. These regulations are adopted by the Town of Nantucket's Board of Health as authorized by G.L. c. 111, § 31.

§ 288-2. Subject area

These regulations shall be applicable in that part of the Town of Nantucket known as the area constituting the Hummock Pond Watershed Protection District as delineated on a map entitled "Hummock Pond Protection", on Town of Nantucket GIS Maps, dated July 17, 2012 or as amended by MassDEP. GIS Maps are available for review on-line at <https://www.nantucket-ma.gov/151/GIS-Maps>

§ 288-2.1 Definitions

A. As used in this regulation, the following terms shall have the meanings indicated:

Acre

A unit of land measure equal to 40,000 square feet which is considered a building acre in accordance with standard real estate practices.

Conventional Septic System

On-site wastewater treatment consisting of septic tank and a trench or bed subsurface soil absorption system, which relies on gravity to distribute effluent, and is not a tight tank or innovative alternative system.

Developed Properties

Properties with existing structures and/or associated sewage disposal systems.

Nitrogen Reducing Technology

A MassDEP approved I/A treatment system capable of reducing nitrogen in wastewater to a minimum of 19 mg/liter from an average influent concentration of 40 mg/liter

Innovative/Alternative (I/A) System

Any on-site wastewater disposal system or part of one that differs from the design or construction of a conventional or standard septic system and/or tight tank. A conventional, or standard, system has a septic tank, distribution box or dosing mechanism, a soil absorption system (SAS), and a reserve area.

B. All other terms used in this regulation shall be as defined in Chapter **223**, Board of Health Administration, Article **III**.

Soil Absorption System (SAS) - Part of an on-site system: the area of ground and system of subsurface pipes or chambers into which partially treated wastewater from the septic tank or I/A system is discharged for final treatment and absorption by soil. Also called Leach Field, Drainfield or Absorption Field.

§ 288-3. Effluent Flow Limitations

A. All properties currently existing or created which are served by in-ground septic systems and located within the Hummock Pond Watershed Protection District as defined within these regulations shall not be constructed or reconstructed to receive design flows over 110 gallons per day of effluent for every 10,000 feet of lot area. Incorporation of a MassDEP approved nitrogen-reducing technology wastewater disposal system shall not increase design flows above 110 gallons per day of effluent for every 10,000 feet of lot area. The use of area within abutting roads and rights-of-way next to a property shall not be included in calculating the permissible effluent flows for the subject property.

B. Existing developed properties shall be allowed to maintain existing design flows permitted under prior state and/or local Codes when performing any upgrades or maintenance as required hereunder or as otherwise required by the Board.

C. Properties located within the Hummock Pond Watershed Protection District and connected to a municipal water service shall not be exempted from compliance with Subsection **A** of this section.

§ 288-4. Separation distances for soil absorption systems

All soil absorption systems for conventional systems must have a separation distance of at least six feet to groundwater. Nitrogen-reducing technology wastewater disposal systems must have a separation distance of at least five feet of separation to groundwater.

§ 288-5. Required inspections within Hummock Pond Watershed Protection District

A. The owner of any property located within Zones A and/or B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be inspected by a licensed Title 5 Inspector every 5 years from the date of April 1, 2026, unless the system was inspected within five years prior to the effective date of this regulation in which case, the first inspection following adoption of these Regulations shall be five years after the last inspection was performed. The inspection is to be witnessed by the Board of Health or its agent and inspection report(s) shall be filed with the Nantucket Health Department within 30 days of the inspection.

B. Notwithstanding the provisions of Subsection **A** hereof, all systems shall be inspected as required by Title 5, including:

- (1)** At the time of property transfer;
- (2)** Upon new construction or increase in design flow of the facility served by the system;
- (3)** Upon evidence of breakout or other signs of hydraulic failure; or
- (4)** Upon order of the Board of Health.

§ 288-5.1 Replacement of conventional systems within Hummock Pond Watershed Protection District.

A. The owner of any property located within Zone A and/or Zone B of the Hummock Pond Watershed Protection District served by a conventional system shall either abandon the system and connect to the municipal sewer system in accordance with Chapter **332**, Sewage Disposal and Treatment, Article **II**; or

B. Cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 110 gallons per day of effluent for every 10,000 feet of lot area, upon occurrence of any of the following events:

- **System Failure:** In the event of system failure documented by a Title 5 Inspection Report and Town of Nantucket Septic System Inspection Report, the entire on-site sewage disposal system shall be brought into full compliance with all applicable State and Local Regulations;
- **New Construction or Structural Alteration or System Expansion:** Any proposal for new construction, as defined in Board of Health Regulation Chapter 223, Article III – *Terms Defined*, on a property with a conventional system. Any property that does not meet current nitrogen loading limitations shall upgrade to the maximum extent feasible; and/or
- **Property Transfer:** For property transfers, as defined in Title 5, for properties located within Zones A and B of the Hummock Pond Watershed Protection District.

Systems exceeding the flow limitations set forth herein shall not be approved or permitted. Nitrogen loading credits for greater effluent flows will not be permitted.

*Existing developed properties shall be allowed to maintain existing design flows as described in Section 288-3 (B) above.

§ 288-5.2. Hummock Pond Watershed Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

A. Notwithstanding the provisions of **§ 288-5.1**, the owner of any property located within Zones A and B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 110 gallons per day per 10,000 feet of lot area of design flow within six months of a system inspection showing that the system is exhibiting hydraulic failure.

B. Notwithstanding the provisions of **§ 288-5.1**, the owner of any property located within Zones A and B of the Hummock Pond Watershed Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 110 gallons per day per 10,000 feet of lot area of design flow within 12 months of a system inspection showing that the system has groundwater separation distances less than six feet.

C. 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.

§ 288-6. Certificate of Compliance

A. No certificate of compliance for on-site subsurface sewage disposal systems with one or more nitrogen-reducing technology wastewater disposal system components shall be issued without proof of the following filed with the Nantucket Health Department:

(1) Active operation and maintenance (O&M) agreement detailing the following:

(a) Service and monitoring of proper system operation;

(b) Laboratory testing of effluent at least two times per year;

(2) Deed notification of the presence of an innovative/alternative system; and

(3) Title 5 compliant system as-built plan stamped by the engineer or registered sanitarian responsible for designing the system.

§ 288-7. 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 Chapter **223**, Board of Health Administration, Article **I** and § **223-9**. The Board may, in its discretion, grant a requested waiver if necessary to avoid undue hardship for properties subject to conditions set forth by the Nantucket Affordable Housing Trust (AHT).

§ 288-8. Enforcement.

Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this regulation as set forth in Chapter **223**, Board of Health Administration, Article **II**.

§ 288-9. Purpose. Severability

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.

Effective Date 4/1/2026

Chapter 382

WELLHEAD PROTECTION DISTRICT

§ 382-1.	Findings.	§ 382-2.	Exempted properties.
		§ 382-3.	Flow design criteria.

[HISTORY: Adopted by the Board of Health of the Town of Nantucket 6-29-1995. Amendments noted where applicable.¹]

GENERAL REFERENCES

Zoning — See Ch. 139.

TOWN REGULATIONS REFERENCES

Administration and enforcement of Board of Health regulations; Wells — See Ch. 386.
definitions — See Ch. 223.

§ 382-1. Findings.

In order to protect the perceived development rights of properties located within the proposed expansion of the Aquifer Protection District, the Board of Health of the Town of Nantucket hereby adopts the below-noted Board of Health regulation in accordance with current nitrogen loading sciences.

§ 382-2. Exempted properties.

- A. "Exempted properties" shall be defined as undeveloped properties located outside the currently sewered areas, and within the Wellhead Protection District Expansion Area as defined by Article 45 of the 1995 Annual Town Meeting.
- B. This exemption shall not apply to those lots governed by other private restrictions, or restrictions by a bona fide government authority, which are not immediately evident at this time.

§ 382-3. Flow design criteria.

- A. Lots within the Aquifer Protection District containing less than 30,000 square feet of area shall be entitled to a maximum septic system design capacity of 330 gallons per day.
- B. Lots within the Aquifer Protection District containing 30,000 square feet or more of area shall be entitled to a septic system design capacity of 110 gallons per 10,000 square feet of property area.
- C. Areas designated as wetlands shall not be considered when calculating square footage of property areas for lots subject to Subsection B.

1. Editor's Note: The Board of Health approved the codification of its regulations, as revised, 6-16-2022.

DRAFT CHAPTER 382 WELLHEAD PROTECTION DISTRICT 1/15/2026 MEETING

CHAPTER 382 WELLHEAD PROTECTION DISTRICT

GENERAL REFERENCES

Zoning — See Ch. 139.

TOWN REGULATIONS REFERENCES

Administration and enforcement of Board of Health regulations; definitions — See Ch. 223.

Wells — See Ch. 386.

§ 382-1. Findings Purpose and authority

§ 382-2. Exempted Properties Subject area

§ 382-2.1 Definitions

§ 382-3. Flow design criteria Effluent Flow Limitations

§ 382-4. Separation distances for soil absorption systems

§ 382-5. Required inspections within Wellhead Protection District

§ 382-5.1. Replacement of conventional systems within Wellhead Protection District

§ 382-5.2. Wellhead Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

§ 382-6. Certificate of Compliance

§ 382-7. Special Variance

§ 382-8. Enforcement.

§ 382-9. Severability

§ 382-1. Findings: Purpose and authority

In order to protect the perceived development rights of properties located within the proposed expansion of the Aquifer Protection District, the Board of Health of the Town of

Nantucket hereby adopts the below-noted Board of Health regulation in accordance with current nitrogen loading sciences.

To preserve, protect, and manage the quality and supply of fresh water in Nantucket's sole source aquifer, 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 the authority granted under MGL c. 111, § 31.

~~§ 382-2. Exempted properties.~~ **Subject area**

~~A. "Exempted properties" shall be defined as undeveloped properties located outside the currently sewered areas, and within the Wellhead Protection District Expansion Area as defined by Article 45 of the 1995 Annual Town Meeting.~~

~~B. This exemption shall not apply to those lots governed by other private restrictions, or restrictions by a bona fide government authority, which are not immediately evident at this time.~~

These regulations shall be applicable in that part of the Town of Nantucket known as the area constituting the Wellhead Protection District as delineated on a map entitled "Wellhead Protection District", on Town of Nantucket GIS Maps or as amended by MassDEP. GIS Maps are available for review on-line at <https://www.nantucket-ma.gov/151/GIS-Maps>

§ 382-2.1 Definitions

A. As used in this regulation, the following terms shall have the meanings indicated:

Acre

A unit of land measure equal to 40,000 square feet which is considered a building acre in accordance with standard real estate practices.

Conventional System

Any on-site subsurface sewage disposal system that is not a tight tank or innovative/alternative system.

Nitrogen Reducing Technology

A MassDEP approved I/A treatment system capable of reducing nitrogen in wastewater to a minimum of 19 mg/liter from an average influent concentration of 40 mg/liter

Innovative/Alternative (I/A) System

Any on-site wastewater disposal system or part of one that differs from the design or construction of a conventional or standard septic system. A conventional, or standard,

system has a septic tank, distribution box or dosing mechanism, a soil absorption system (SAS), and a reserve area.

B. All other terms used in this regulation shall be as defined in Chapter **223**, Board of Health Administration, Article **III**.

§ 382-3. Flow design criteria. **Effluent Flow Limitations**

~~A.~~ Lots within the Aquifer Protection District containing less than 30,000 square feet of area shall be entitled to a maximum septic system design capacity of 330 gallons per day.

~~B.~~ Lots within the Aquifer Protection District containing 30,000 square feet or more of area shall be entitled to a septic system design capacity of 110 gallons per 10,000 square feet of property area.

~~C.~~ Areas designated as wetlands shall not be considered when calculating square footage of property areas for lots subject to Subsection ~~B~~.

A. All properties currently existing or created which are served by in-ground septic systems and located within the Wellhead Protection District as defined within these regulations shall be served by a MassDEP-approved nitrogen-reducing technology wastewater disposal system and shall not be constructed or reconstructed to receive design flows over 110 gallons of effluent for every 10,000 feet of lot area. Incorporation or use of a MassDEP-approved nitrogen-reducing technology wastewater disposal system shall not increase design flows above 110 gallons of effluent for every 10,000 feet of lot area. The use of abutting roads and rights-of-way to a property shall not be considered in calculating the permissible effluent flows for the subject property.

B. Existing developed properties shall be allowed to repair/replace existing subsurface disposal systems for existing flows determined by a qualified licensed Massachusetts professional with a MassDEP approved nitrogen-reducing technology wastewater disposal system acceptable to the Nantucket Board of Health as deemed appropriate.

C. Properties located within the Wellhead Protection District and connected to a municipal water service shall not be exempted from compliance with Subsection **A** of this section.

§ 382-4. Separation distances for soil absorption systems

All soil absorption systems for conventional systems must have a separation distance of at least six feet to groundwater. Nitrogen-reducing technology wastewater disposal systems must have a separation distance of at least five feet of separation to groundwater.

§ 382-5. Required inspections within Wellhead Protection District

A. The owner of any property located within of the Wellhead Protection District Protection District served by a conventional system shall cause the system to be inspected by a licensed Title 5 Inspector every 5 years from the date of Ap, 2026, unless the system was inspected within five years prior to the effective date of this regulation in which case, the first inspection following adoption of these Regulations shall be five years after the last inspection was performed. The inspection is to be witnessed by Board of Health or its agent and inspection report(s) shall be filed with the Nantucket Health Department within 30 days of the inspection.

B. Notwithstanding the provisions of Subsection **A** hereof, all systems shall be inspected as required by Title 5, including:

- (1)** At the time of property transfer;
- (2)** Upon new construction or increase in design flow of the facility served by the system;
- (3)** Upon evidence of breakout or other signs of hydraulic failure; or
- (4)** Upon order of the Board of Health.

§ 382-6 5.1 Replacement of conventional systems within Wellhead Protection District

A. The owner of any property located within the Wellhead Protection District served by a conventional system shall either abandon the system and connect to the municipal sewer system in accordance with Chapter **332**, Sewage Disposal and Treatment, Article **II**; or

B. Cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow, upon occurrence of any of the following events:

- **System Failure:** In the event of system failure documented by a Title 5 Inspection Report and Town of Nantucket Septic System Inspection Report, the entire on-site

sewage disposal system shall be brought into full compliance with all applicable State and Local Regulations.

- **New Construction or Structural Alteration or System Expansion:** Any proposal for new construction, as defined in Board of Health Regulation Chapter 223, Article III – *Terms Defined*, on a property where the existing septic system does not meet current State and Local Regulations. Any property that does not meet current nitrogen loading limitations shall upgrade to the maximum extent feasible.
- **Property Transfer:** For property transfers, as defined in Title 5, for properties located within of the Wellhead Protection District.

Systems exceeding this flow limitation shall not be approved or permitted. Nitrogen loading credits for greater effluent flows will not be permitted.

*Existing developed properties shall be allowed to repair/replace existing subsurface disposal systems for existing flows.

§ 382-5.2. Wellhead Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

A. Notwithstanding the provisions of **§ 382-5.1**, the owner of any property located within of the Wellhead Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow within six months of a system inspection showing that the system is exhibiting hydraulic failure.

B. Notwithstanding the provisions of **§ 382-5.1**, the owner of any property located within of the Wellhead Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow within 12 months of a system inspection showing that the system has groundwater separation distances less than six feet.

C. 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.

§ 382-6. -Certificate of Compliance

A. No certificate of compliance for on-site subsurface sewage disposal systems with one or more nitrogen-reducing technology wastewater disposal system components (shall be issued without proof of the following filed with the Nantucket Health Department:

(1) Active operation and maintenance (O&M) agreement detailing the following:

(a) Service and monitoring of proper system operation;

(b) Laboratory testing of effluent at least two times per year;

(2) Deed notification of the presence of an innovative/alternative system; and

(3) Title 5 compliant system as-built plan stamped by the system designer. ~~a design engineer or land surveyor.~~

§ 382-7 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 Chapter **223**, Board of Health Administration, Article **I** and § **223-9**.

§ 382-8. Enforcement.

Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this regulation as set forth in Chapter **223**, Board of Health Administration, Article **II**.

§ 382-9 Severability.

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.

CHAPTER 382 WELLHEAD PROTECTION DISTRICT

GENERAL REFERENCES

Zoning — See Ch. 139.

TOWN REGULATIONS REFERENCES

Administration and enforcement of Board of Health regulations; definitions — See Ch. 223.

Wells — See Ch. 386.

§ 382-1. Purpose and authority

§ 382-2. Subject area

§ 382-2.1 Definitions

§ 382-3. Effluent Flow Limitations

§ 382-4. Separation distances for soil absorption systems

§ 382-5. Required inspections within Wellhead Protection District

§ 382-5.1. Replacement of conventional systems within Wellhead Protection District

§ 382-5.2. Wellhead Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

§ 382-6. Certificate of Compliance

§ 382-7. Special Variance

§ 382-8. Enforcement.

§ 382-9. Severability

§ Purpose and authority

To preserve, protect, and manage the quality and supply of fresh water in Nantucket's sole source aquifer, 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 the authority granted under MGL c. 111, § 31.

§ 382-2. Subject area

These regulations shall be applicable in that part of the Town of Nantucket known as the area constituting the Wellhead Protection District as delineated on a map entitled " Wellhead Protection District", on Town of Nantucket GIS Maps or as amended by MassDEP. GIS Maps are available for review on-line at <https://www.nantucket-ma.gov/151/GIS-Maps>

§ 382-2.1 Definitions

A. As used in this regulation, the following terms shall have the meanings indicated:

Acre

A unit of land measure equal to 40,000 square feet which is considered a building acre in accordance with standard real estate practices.

Conventional System

Any on-site subsurface sewage disposal system that is not a tight tank or innovative/alternative system.

Nitrogen Reducing Technology

A MassDEP approved I/A treatment system capable of reducing nitrogen in wastewater to a minimum of 19 mg/liter from an average influent concentration of 40 mg/liter

Innovative/Alternative (I/A) System

Any on-site wastewater disposal system or part of one that differs from the design or construction of a conventional or standard septic system. A conventional, or standard, system has a septic tank, distribution box or dosing mechanism, a soil absorption system (SAS), and a reserve area.

B. All other terms used in this regulation shall be as defined in Chapter **223**, Board of Health Administration, Article **III**.

System Requirements

All subsurface wastewater disposal systems located within the Wellhead Protection District shall be a MassDEP approved nitrogen-reducing technology wastewater disposal system.

§ 382-3. Effluent Flow Limitations

A. All properties currently existing or created which are served by in-ground septic systems and located within the Wellhead Protection District as defined within these regulations shall be served by a MassDEP-approved nitrogen-reducing technology wastewater disposal

system and shall not be constructed or reconstructed to receive design flows over 110 gallons of effluent for every 10,000 feet of lot area. Incorporation or use of a MassDEP-approved nitrogen-reducing technology wastewater disposal system shall not increase design flows above 110 gallons of effluent for every 10,000 feet of lot area. The use of abutting roads and rights-of-way to a property shall not be considered in calculating the permissible effluent flows for the subject property.

B. Existing developed properties shall be allowed to repair/replace existing subsurface disposal systems for existing flows determined by a qualified licensed Massachusetts professional with a MassDEP approved nitrogen-reducing technology wastewater disposal system acceptable to the Nantucket Board of Health as deemed appropriate.

C. Properties located within the Wellhead Protection District and connected to a municipal water service shall not be exempted from compliance with Subsection **A** of this section.

§ 382-4. Separation distances for soil absorption systems

All soil absorption systems for conventional systems must have a separation distance of at least six feet to groundwater. Nitrogen-reducing technology wastewater disposal systems must have a separation distance of at least five feet of separation to groundwater.

§ 382-5. Required inspections within Wellhead Protection District

A. The owner of any property located within of the Wellhead Protection District Protection District served by a conventional system shall cause the system to be inspected by a licensed Title 5 Inspector every 5 years from the date of Ap, 2026, unless the system was inspected within five years prior to the effective date of this regulation in which case, the first inspection following adoption of these Regulations shall be five years after the last inspection was performed. The inspection is to be witnessed by Board of Health or its agent and inspection report(s) shall be filed with the Nantucket Health Department within 30 days of the inspection.

B. Notwithstanding the provisions of Subsection **A** hereof, all systems shall be inspected as required by Title 5, including:

- (1)** At the time of property transfer;
- (2)** Upon new construction or increase in design flow of the facility served by the system;
- (3)** Upon evidence of breakout or other signs of hydraulic failure; or
- (4)** Upon order of the Board of Health.

§ 382-6 5.1 Replacement of conventional systems within Wellhead Protection District

A. The owner of any property located within the Wellhead Protection District served by a conventional system shall either abandon the system and connect to the municipal sewer system in accordance with Chapter **332**, Sewage Disposal and Treatment, Article **II**; or

B. Cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow, upon occurrence of any of the following events:

- **System Failure:** In the event of system failure documented by a Title 5 Inspection Report and Town of Nantucket Septic System Inspection Report, the entire on-site sewage disposal system shall be brought into full compliance with all applicable State and Local Regulations.
- **New Construction or Structural Alteration or System Expansion:** Any proposal for new construction, as defined in Board of Health Regulation Chapter 223, Article III – *Terms Defined*, on a property where the existing septic system does not meet current State and Local Regulations. Any property that does not meet current nitrogen loading limitations shall upgrade to the maximum extent feasible.
- **Property Transfer:** For property transfers, as defined in Title 5, for properties located within the Wellhead Protection District.

Systems exceeding this flow limitation shall not be approved or permitted. Nitrogen loading credits for greater effluent flows will not be permitted.

*Existing developed properties shall be allowed to repair/replace existing subsurface disposal systems for existing flows.

§ 382-5.2. Wellhead Protection District hydraulic and technical on-site subsurface sewage disposal system failure replacement requirements

A. Notwithstanding the provisions of **§ 382-5.1**, the owner of any property located within of the Wellhead Protection District served by a conventional system shall cause the system to be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow within six months of a system inspection showing that the system is exhibiting hydraulic failure.

B. Notwithstanding the provisions of **§ 382-5.1**, the owner of any property located within of the Wellhead Protection District served by a conventional system shall cause the system to

be abandoned and replaced with a MassDEP approved nitrogen-reducing technology wastewater disposal system designed and operated such that the effluent flow does not exceed 440 gallons per day per acre of design flow within 12 months of a system inspection showing that the system has groundwater separation distances less than six feet.

C. 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.

§ 382-6. -Certificate of Compliance

A. No certificate of compliance for on-site subsurface sewage disposal systems with one or more nitrogen-reducing technology wastewater disposal system components (shall be issued without proof of the following filed with the Nantucket Health Department:

(1) Active operation and maintenance (O&M) agreement detailing the following:

(a) Service and monitoring of proper system operation;

(b) Laboratory testing of effluent at least two times per year;

(2) Deed notification of the presence of an innovative/alternative system; and

(3) Title 5 compliant system as-built plan stamped by the system designer. ~~a design engineer or land surveyor.~~

§ 382-7 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 Chapter **223**, Board of Health Administration, Article **I** and § **223-9**.

§ 382-8. Enforcement.

Without limiting any other available remedies or penalties, the Board of Health and/or its agent may enforce this regulation as set forth in Chapter **223**, Board of Health Administration, Article **II**.

§ 382-9 Severability.

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.

