

## GENERAL

### 09.0 GENERAL REGULATIONS AND POLICIES

#### 09.0.1 Scope and Purpose

(1) The responsibilities and authorities of the Board of Health are extensive. The subject matters addressed include topics related to individual health, animal health, food and drugs, habitation

conditions, nuisances, food service, and an ever growing list of environmental pollution, etc. Statutes pertinent to the concerns and responsibilities of the Board of Health are found in over 50 different chapters of Massachusetts General Law. In addition to the statutes, there are State Sanitary and Environmental Codes, federal laws and regulatory standards.

(2) The Regulations of the Tisbury Board of Health set forth standards and requirements to meet local needs and conditions. It is the policy of the Board to keep regulations to a minimum.

#### 09.0.2 Regulatory Reference

(1) Major reliance is placed on the State Sanitary and Environmental Codes as the principle regulatory references. These Codes, together with town regulations and by-laws, provide the regulatory information most commonly required.

(2) The requirements of the State Codes are to be taken as minimum for average conditions and typical situations. The Board of Health may, in specific cases, impose more stringent requirements. Special requirements, peculiar to individual sites, include, but are not limited to, considerations related to the unique circumstances of soil conditions, proximity to water supply sources, distances to established structures and activities, and wetland and water body locations.

(3) When reference to the statutes is necessary, it is often advisable to seek the assistance of an attorney; statutes relating to health and environmental subjects are numerous, they are not codified, and they are constantly being repealed, amended, or added to.

(4) When contemplating a regulated activity, construction, or use likely to involve more than one town agency, time can be saved and confusion avoided by inquiring as to the sequence in which the agencies should be addressed. The Buildings/Zoning Inspector can usually provide initial guidance.

#### 09.0.3 Waivers

(1) State and federal statutes and town by-laws cannot be waived.

(2) Under certain conditions, state codes and regulations may be modified or waived, with respect to selected specifics, by the cognizant state department. In health matters, usually the local Board of Health must request or endorse a waiver application.

(3) Local regulations may be modified or waived, with respect to selected specifics, provided:

- A written application is made, and;
- the application fully describes the locus (including the assessors lot number identification:, gives the property owner's name and address, cites the specific regulation (including the specifics of page, section, paragraph, sentence, words and/or numbers), describes clearly the waiver requested and why it is requested, and;

· the majority of the Board of Health, after consideration, or after public hearing and consideration, finds a waiver appropriate and consistent with general regulatory intent.

In granting a waiver, the Board may restrict or limit the waiver to any extent, form or requirement the Board finds proper. A waiver shall not become effective until evidenced in writing and signed by at least two (2) members of the Board of Health. During construction, a copy of the waiver must be posted at the site; thereafter, a copy shall be displayed to any officer, inspector, or board agent upon demand.

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### **09.0.4 Adoption – Amendment – Effectivity**

The Board, after notice, hearing and vote may adopt or amend regulations. Consistent with statutory authority, the Board may adopt emergency regulations without prior notice or hearing. For standard regulations, the adoption date of a new, or amended regulation, is shown on the lower right hand corner of each regulation. Unless stated otherwise, the date of adoption is the effectivity date.

8/5/80

### **09.0.5 Document Fees**

The Board may charge for documents, including regulations it makes available for public distribution. Where such charges are established they shall not exceed the actual cost of acquisition.

8/5/80

### **09.0.6 Non-Criminal Disposition (MGL c40 s21D) Offense Fine 2nd Offense Enabling Law**

Illegal Dumping \$ 50.00 \$100.00 MGL 270.16A

Littering \$ 50.00 \$100.00 MGL 270.16A

Illegal Disposal (household or \$ 50.00 \$100.00 BOH 09.6.3  
commercial waste into public receptacle.)

Unlawful Discharge into \$ 50.00 \$100.00 MGL 270.16A groundwater/waterway

Human Habitation \$ 50.00 \$100.00 BOH 09.4.9

Sanitary Code Violation(s)

State Sanitary Code Violation(s) \$ 50.00 \$100.00 BOH 09.5.4

Commercial Hydroseed/ \$ 50.00 BOH 09.9.16

Fertilizing Operations

Violation of Lead Laws \$500.00 BOH 09.4.6

Animal Excrement \$ 25.00 \$ 50.00 BOH 09.7.1

Quarantine Fine \$ 10.00 \$ 25.00 BOH 09.7.2

Sale of Food Without \$300.00 BOH 09.5.1

Valid Permit

Alteration/Repair of Septic \$100.00 BOH 09.6.1

System without Valid Permit

Feeding Waterfowl Warning \$100.00 BOH 09.9.17

Dumpster Violation(s) \$ 25.00 \$ 50.00 BOH 09.2.4

Licensed Junkyard not in Compliance \$100.00 BOH 09.6.4

Unsanitary Maintenance of Warning \$ 50.00 BOH 09.4.8

Public Facility/Public Access

## **09.0 GENERAL REGULATIONS AND POLICIES**

### **09.0.7 Non-Criminal Disposition (MGL c40 s21D) Continued Offense Fine 2nd Offense Enabling Law**

Work without Valid Permit \$100.00 BOH 09.6.1

Fuel Storage Violations \$200.00 BOH 09.4.7

Unlawful Hydroseeding \$ 50.00 BOH 09.9.16

Work Engagement Without Permit \$100.00 BOH 09.6.1

Illegal Disposal of Woodwaste \$300.00 BOH 09.2.9

11/7/89 3/27/90 7/24/90 12/18/90 3/19/91 9/29/92 4/11/06

### **09.0.7(B) Penalties**

Whoever violates any Board of Health regulation not listed under 09.0.6 Non-Criminal

Disposition schedule shall upon conviction forfeit a sum not to exceed five hundred dollars (\$500.00) for each violation, and each day a violation continues after notice shall constitute a separate offense pursuant to MGL 111 s 31.

### **09.0.8 Policy Statements**

(1) GREYWATER as defined in Title V, 310 CMR 15.10, Sanitary Sewage, is not allowed to

discharge or spill onto the surface of the ground or to flow into the street, roadway, or public place, nor shall such material discharge onto any private property. The Tisbury Board of Health allows separate leaching facilities for washing machine and roof runoff greywater waste, if the septic systems meet State standards of minimum requirements, and if the subsurface disposal system meets the Town's more stringent requirements for sanitary sewage.

(2) GARBAGE GRINDERS – The Tisbury Board of Health will allow for garbage grinders provided that the septic system receiving the garbage meets all Title V requirements and Town regulations.

(3) PERCOLATION TESTS for individual septic system application and design come under review by the Board of Health if the test(s) is older than two (2) years.

(4) SEPTIC SYSTEM INSPECTIONS – Septic system inspection reports must be submitted to this office within thirty (30) days of completion and are then valid for two (2) years from date of inspector's report. Septic System Inspections are required for the following:

- Sale and Transfer of Properties – A letter from this office acknowledging the septic system inspection report and listing any conditions and/or upgrade requirements must be obtained prior to the closing.
- Septic waste running overground.
- Four (4) or more pumpouts of a septic system within one (1) year.
- Any change of use, additions, major renovations, seasonal increase, or any wastewater increase.
- On a schedule set forth in the Town Septage Management Plan adopted by Town Meeting vote of April 24, 2002.

3/31/95

4/11/06

(5) REGISTERED OWNER – The Tisbury Board of Health has a policy not to process engineering drawings for septic systems if the applicant is not the registered owner of the property for which the plan has been designed.

11/14/89

**09.0 GENERAL POLICIES**

**09.0.8 Policy Statements Continued**

(6) SETTLING TANK ALTERNATIVE – The Board of Health, after discussion with S.P. Engineering and DEP written response, have voted to prohibit the conversion of failed or marginal cesspools into septic/settling tank alternative. the Board requires that the State Minimum Standards be strived for at all times. Variance to this policy may be requested with good cause and documentation.

7/31/90

(7) MOUNDED SEPTIC SYSTEMS shall not be allowed on land unsuitable for a standard leaching pit/trench/field. mounded systems may be permitted only for an existing structure that has been identified as having a failed septic system and is physically restricted from use of a standard leaching pit/trench/field.

1/15/91

(8) 90 DAYS TO UPGRADE – It is the policy of the Board of Health that failed septic systems must be upgraded within ninety (90) days. In the case of an upgrade ordered for property sale & transfer the 90 day period will begin on the date of closing

4/11/06

(9) SEPTIC PLAN SUBMITTED WITH HOUSE PLANS - The Board of Health requires the applicant to submit a floor plan (house plan) with septic system design application. This is required for all new designs, including septic system upgrades/expansions.

1/28/92

(10) BENCHMARKS – The Tisbury Board of Health requires that all benchmarks within the Coastal District must be based on actual NGVD, 1929. All other benchmark data within non-coastal districts can be assumed datum. All other fragile areas are included within the Coastal District for definition of this policy.

2/11/92

(11) SEWER LINES – The Tisbury Board of Health accepts the minimum standards as set by the Commonwealth with respect to the minimum length of the sewer line. 310 CMR 15.01

8/18/92

(12) SINGLE CESSPOOLS – The Tisbury Board of Health considers single cesspools to be failed systems that must be upgraded at the time of sale and transfer.

4/11/06

(13) ALTERNATIVE/ADVANCED TREATMENT SYSTEMS – Any proposed alternative/advanced treatment system requires abutter notification and a hearing prior to Board of Health approval.

4/11/06

(14) PROHIBITION OF NEW OR EXPANDED SYSTEMS IN SEWER DISTRICT – No new septic system shall be constructed and no septic system shall be upgraded or expanded, if it is feasible to connect the property to the municipal sewer system.

4/11/06

### **Disclaimer - Partial Invalidity**

If any title, regulation, paragraph, sentence, clause, phrase, or word of this regulation book shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of this regulation book, which shall remain in full force and effect; and to this end the provisions of this regulation book are hereby declared severable.