

Town of Aquinnah
(f/k/a Gay Head)
Commonwealth of Massachusetts
Board of Health Rules and Regulations

<u>Table of Contents</u>	<u>Page</u>
1. Well Regulations	1
2. Sewage Disposal and Septic Systems	4
3. Food Service Establishments	9
4. Boarding Establishments	10
5. Complaints and Variances	11
6. Miscellaneous Provisions	13
7. Fertilizer Regulations	13
8. Tobacco Regulations	13
9. Body Art Regulations	13
Appendix 1. Fee Schedule	14
Appendix 2. Separations	15

STATEMENT CONCERNING REGULATORY AUTHORITY

Pursuant to the Regulatory Authority conferred upon Boards of Health by Mass. General Laws, Chapter 111, Sections 31, 31A and 31B and such other authority as the General Laws may confer upon Boards of Health; the Aquinnah Board of Health has adopted the following regulations. Unless otherwise provided, these regulations shall be applied throughout the Town of Aquinnah. These regulations supersede all previously adopted rules and regulations of the Aquinnah Board of Health.

1 **WELL REGULATIONS**

1.1 Purpose: The purpose of this regulation is to protect the public health, safety, and welfare by regulating the construction of potable and non-potable water supply wells and by requiring periodic retesting for water quality.

1.2 **Well Drillers:**

1.2.1 Anyone drilling a private well, which provides the primary source of water to a dwelling or building and such water is to be used for human consumption, must file a current Well Drillers Certificate with the Board of Health.

1.2.2 No person shall engage in the business of digging or drilling wells within the Commonwealth unless he is registered with the Water Resource Commission. Each person intending to engage in said business shall register annually with said Commission. (§16, Commonwealth of Massachusetts Manual of Laws Relating to Public Health).

1.3 Well Construction Permits:

- 1.3.1 Prior to the drilling of a private well within the Town of Aquinnah for the purpose described herein, a permit must first be obtained from the Board of Health.
 - 1.3.1.1 Upon applying for a permit the driller must submit a plot plan stamped by a Registered Professional Engineer or Registered Land surveyor showing the well location, lot dimensions, existing and proposed structures, wells and sewage disposal systems on abutting lots, and the location of any potential source of pollution within 150' of the lot.
- 1.3.2 Upon compliance and the absence of any conflicts with other portions of these regulations, a Well Driller's Construction Permit will be issued by the Health Agent.
- 1.3.3 If conflicts do exist, the issuance of said permit may be appealed to the full Board of Health. (See §5.2 of these regulations)
- 1.3.4 A permit so granted shall expire two years from the date of issue unless otherwise revoked for cause.
- 1.3.5 A building and septic permit application will be processed; and, if approved, will be granted but not issued until the well installation has been approved.

1.4 Well Locations and Use Requirements

- 1.4.1 For potable water, dug or driven wells will not be permitted.
- 1.4.2 Minimum Lateral Distances - Any well providing potable water shall be located at the following minimum distances:
 - 1.4.2.1 150 feet from a subsurface sewage disposal area (including reserve areas)
 - 1.4.2.2 100 feet from a wetland,
 - 1.4.2.3 50' from a septic tank,
 - 1.4.2.4 25' from a street layout,
 - 1.4.2.5 50' from other wells,
 - 1.4.2.6 25' from subsurface drains,
 - 1.4.2.7 100' from underground propane, oil and gasoline tanks and underground distribution lines
 - 1.4.2.8 25' from the normal high water mark of any lake, pond, river, stream, ditch, or slough
 - 1.4.2.9 at least 10 feet from any property line.
- 1.4.3 The Board may increase the distances listed in Subsection 1.5.2 and may impose minimum lateral distances from other potential sources of contamination when in its opinion, conditions warrant such protection.
- 1.4.4 All such special location requirements shall be specified as a condition of the well construction permit. In certain cases, special means of protection for the well may be required such as a structure around a well near a driveway.
- 1.4.5 A private well can only be utilized to serve those dwellings on a single lot or single bounded area. The use of a single well to supply water to building on two (or more) lots is unauthorized.

1.5 Well Registration

- 1.5.1 Within 30(thirty) days of the completion of a well that has been constructed in accordance with an approved Well Construction Permit, a Water Well Completion Report must be submitted to the Board of Health as specified in 313 CMR 3.00. The property owner must then notify the Board of Health when the well is operable and must submit the necessary

well analysis and pump test. Following review of analytical results, pump tests and all other pertinent information, an inspection will be made by the Board of Health or its agent(s) to verify the well location, construction, operation of the well pump, and any required posting.

- 1.5.2 A well water completion report must be filled out by the driller with a copy sent to the Comm. Of Mass, Aquinnah, BOH office and the property owner. Upon completion of the testing and the water report the well will be approved by the Board of Health.

1.6 Water Quality

- 1.6.1 All private wells shall be disinfected after construction, rehabilitation and well or pump repair before the well is placed in service.
- 1.6.2 Well water from all drilled wells shall be sampled following development and disinfection. Chemical and bacteriological analysis shall be completed and approval of the Board of Health must be obtained before the well is used.
 - 1.6.2.1 A representative sample of water shall be collected and analyzed by a laboratory certified by the Massachusetts Department of Environmental Protection for water quality and a bacteriological and chemical report shall be filed with the Aquinnah Board of Health. The results of the bacteriological analysis shall meet the standards specified in 310 CMR 22.00 (Mass Drinking Water Regulations).
 - 1.6.2.2 Each private well shall be sampled and retested for potability at the time of sale of the property unless tests for potability can be documented within the prior 12 months.
 - 1.6.2.3 The Board may require testing for additional parameters when, in its opinion, it is necessary due to local conditions or for the protection of health, safety and welfare
- 1.6.3 Driven and non-potable wells are not required to be tested but a permanent sign must be clearly posted and maintained at the well stating “ For Non-Potable Use Only.”
- 1.6.4 In the case where a well requires installation of a treatment system in order to meet primary drinking water standards, the Board of Health may condition the well’s approval upon the installation and testing of said system. In such case as a treatment system is required, the owner shall be responsible to attach a deed notice to the records for the property at the Dukes County Registry of Deeds and provide the Board of Health with proof this has been done.
- 1.6.5 A certificate of Occupancy may not be issued by the building inspector without written approval of the well and water system by the Board of Health.

1.7 Dormant wells or Upon Transfer of the Property

- 1.7.1 Any well that has been dormant for two (2) years or upon transfer of the property must be pumped and the well water quality proven to the satisfaction of the Board of Health.

1.8 Enforcement

- 1.8.1 Board of Health or its Agent(s) may enter upon privately owned property for the purpose of conducting inspections, investigating violations of these regulations, and performing all other duties under these regulations.
- 1.8.2 Failure to comply with these provisions contained herein shall be punishable by a fine of no less than one hundred dollars (\$ 100.00) and not more than five hundred dollars (\$ 500.00).

2 SEWAGE DISPOSAL AND SEPTIC SYSTEMS

2.1 Title V Applicability

- 2.1.1 The Aquinnah Board of Health is the Approving Authority for 310 CMR 15.000, “THE STATE ENVIRONMENTAL CODE, TITLE 5: STANDARD REQUIREMENTS FOR THE SITING, CONSTRUCTION, INSPECTION, UPGRADE AND EXPANSION OF ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS AND FOR THE TRANSPORT AND DISPOSAL OF SEPTAGE” (“Title V”), all provisions of which are hereby incorporated into these regulations by reference.
- 2.1.2 Local Boards of Health are further empowered by Massachusetts General Laws c.111, s.31, as reflected in 310 CMR 11.02, to enact their own regulations to protect public health, safety, welfare and the environment, which may exceed, but not fall below, the minimum requirements set forth in Title V. The regulations outlined below are therefore additional to Title V requirements.

2.2 Percolation Test Season

- 2.2.1 Test holes, percolation tests, and soil analysis to determine the site conditions for the purpose of a septic system design shall only be conducted during the period between December 1 and April 30, in the Town of Aquinnah.
- 2.2.2 Any request to extend the season must be made in writing to the Board of Health prior to April 15th. (See §5.2 of these regulations)

2.3 Mounded Systems

- 2.3.1 There will be no new septic system of mounded design allowed for new construction in the Town of Aquinnah

2.4 Flow Limitations and building alterations

- 2.4.1 Any bedroom or room which meets the Title V definition of a bedroom shall be calculated as generating 110 gallons per day sewage flow. All lots shall be permitted 110 gallons per day per 15,000 sq. ft. of land area
- 2.4.2 Any conversion of seasonal living space to year-round living or storage space shall require that notice be given to the Board of Health by the owner for review by the Board of Health and an upgrade to the septic system as may be determined by the board.
- 2.4.3 When an existing structure is to be altered or any increase in living space is proposed and a building permit is required, the Board of Health may require that the existing sub surface sewage disposal system be brought into compliance with all state and local regulations.

2.5 Separations

The following separations must be maintained from any sanitary disposal systems:

- 2.5.1 150 feet from an existing or proposed well providing potable water
- 2.5.2 150 feet from a wetland
- 2.5.3 30 feet from any existing sanitary disposal systems
- 2.5.4 150 feet from any saltwater body
- 2.5.5 30 feet from the property line of an adjacent lot in separate ownership

- 2.5.6 a minimum of five (5) feet vertical separation between the lowest point of a leaching facility and the high seasonal water table
- 2.5.7 In the case of a well used in connection with fish or shellfish hatcheries, a lesser distance may be allowed.

2.6 Disposal System Construction Permit

- 2.6.1 No individual sewage disposal system or other means of sewage disposal shall be constructed, repaired, upgraded, modified, or expanded until a Disposal System Construction Permit has been issued by the Board of Health. Such permit shall be invalidated if conditions different than those set forth in the application are found prior to or during construction of the sewage disposal system.
- 2.6.2 An application for a Disposal System Construction Permit shall be submitted to the Board of Health accompanied by three (3) copies of a plan stamped by a licensed professional engineer or sanitarian showing the proposed sewage disposal facility, and a Soil Suitability Assessment and percolation test data for On-site Sewage Disposal duly witnessed by an agent of the Board.
- 2.6.3 Permits so granted shall expire three years from the date of issue unless construction of the system is complete and a Certificate of Compliance has been issued.
- 2.6.4 No application for a Disposal System Construction Permit will be given final approval until a well has been installed, tested and approved. However, approval may be granted prior to well installation in those instances in which the applicant wishes to have confirmation that the proposed sewage disposal system is acceptable prior to going to the expense of installing a well. The construction permit will be released only after well installation, water and pump testing and final Board of Health review.
- 2.6.5 Any change from the approved plan shall require written approval from the design engineer and the Board of Health prior to construction of the system.

2.7 System Inspection

- 2.7.1 The Board of Health reserves the right to require notification 24 hours prior to the beginning of construction of any sewage disposal system and prior to the covering of any subsurface disposal system. The Board of Health reserves the right to inspect the system at any stage of construction.
- 2.7.2 The engineer shall conduct a “wet” operational inspection of all new or repaired septic systems which employ a pump prior to issuance of the Certificate of Compliance
- 2.7.3 Final inspection shall be performed within a reasonable period of time by the system designer who shall provide written certification that the system or repair has been constructed in compliance with 310 CMR 15.000 (Title V), the approved design plans and all local requirements.
- 2.7.4 The installer shall be responsible to provide to the Board of Health with an as-built plan, signed by both the installer and the engineer, showing the location of all underground features of a newly installed system with reference to distances from permanent landmarks. A copy should also be provided to the property owner.
- 2.7.5 The installer shall also provide a signed statement certifying that the newly installed system or repair has been constructed in compliance with 310 CMR 15.000 (Title V), the approved design plans and all local requirements.

- 2.7.6 A Certificate of Compliance will be issued upon receipt of all certifications and other requirements of this section.
- 2.7.7 *A Certificate of Compliance shall be required for occupancy of any building requiring a septic system. Until and unless the Board of Health has issued a Certificate of Compliance, no new, altered, or repaired sewage disposal system shall be placed in service; nor shall new or existing dwellings, buildings, or additions thereto, which must rely on said system, be occupied.*

2.8 **Building and Plumbing Permits**

- 2.8.1 No building permit or plumbing permit shall be issued until a Disposal System Construction Permit has first been approved by the Board of Health.
- 2.8.2 In the case of an alteration to an existing structure, when the proposed volume of sewage is greater than the existing volume, the Board of Health reserves the right to determine whether the existing sewage disposal system is adequate for the proposed alteration before a building permit or plumbing permit may be issued

2.9 **Variances**

- 2.9.1 The Board of Health may vary any section of its regulations to the standards set forth in Title V, 310 CMR 15.
- 2.9.2 Variances from Title V require approval of the Massachusetts Department of Environmental Protection (DEP) as provided in 310 CMR 15, as well as approval from the Board of Health.
- 2.9.3 A variance may be granted by the Aquinnah Board of Health if the applicant has proven that the same degree of environmental protection can be achieved without strict application of the requirement.
- 2.9.4 The procedure to apply and pursue such variances is set forth in a later section of these rules below.(See §5.2 of these regulations)

2.10 **Septic System Maintenance and Failure**

- 2.10.1 Any person owning or operating a facility on which an on-site subsurface sewage treatment and disposal system is installed shall be responsible for the inspection and maintenance of, and any necessary upgrades to, the system.
- 2.10.2 No cleaners, root killers, yeast, drain-field de-cloggers or other chemical, nutrient, enzymatic or bacterial additives or any other chemical treatment of subsurface disposal systems shall be permitted for use, including acid or hydrocarbon products.
- 2.10.3 In such case as a tight-tank system is present, the owner shall, upon request, demonstrate [1] a functioning alarm system, set to alarm at 3/5 tank capacity; [2] a water meter at the entrance to the plumbing system; and [3] records of past year pump outs, including dates, quantity and hauler.
- 2.10.4 **Alternative Systems:** In such case as an Innovative or Alternative System is installed, the Board of Health must be in possession of a valid Operation and Maintenance Agreement between the owner and a Massachusetts certified operator where one is required by 257 CMR 2.00, or otherwise with a person qualified to operate and maintain the system, prior

to issuing a certificate of compliance. Where relevant, a copy of the operating manual for the system must be provided to the Health Agent when requested.

- 2.10.5 Inspection reports shall be filed with the Board of Health office
 - 2.10.5.1 *quarterly for the initial year of operation*
 - 2.10.5.2 *after which, if the system is functioning properly, the owner may petition the board for a longer period between reports, but provision of such reports shall not exceed annually at a minimum*
 - 2.10.5.3 *reports must also be filed when any problems, failures or interruptions develop with the system.*
 - 2.10.5.4 *Failure to submit the required reports may incur a fine of \$100 per day.*

2.10.6 **Pumpouts:** *It is recommended that pumpouts be performed per the recommendations of the system designer. A permit shall be required to be obtained from the board before any pumpout shall occur.*

- 2.10.6.1 A system requiring more than 4 emergency pump-outs in one year will be deemed to have failed. The homeowner is responsible for informing the Board of Health when failure conditions become apparent. A system which has failed shall be deemed to be an **imminent health hazard**, and shall be upgraded within 90 days of discovery.
- 2.10.6.2 A system requiring two or more emergency pump-outs within a six-month period shall be inspected by a licensed System Inspector within 30 days of the second pump-out. The inspection report shall be sent to the Board of Health without delay to determine if property is habitable.
- 2.10.6.3 *Septic systems showing physical signs of failure, including but not limited to visible effluent, breakout, or backups, may be deemed as failed by the board.*
- 2.10.6.4 *In such case a failed system is not addressed within the time period cited above, the certificate of occupancy may be suspended and the dwelling may not be inhabited until the situation is rectified.*

2.11 **Disposal System Installers**

- 2.11.1 No individual shall engage in the construction, upgrade, modification, repair, emergency repair, or expansion of any sewage disposal system without first obtaining a Disposal System Installer Permit from the Board of Health.
- 2.11.2 Such a permit shall expire at the end of the calendar year in which it is issued unless earlier revoked for cause by the Board of Health.
- 2.11.3 The Board of Health reserves the right to require that an applicant for a Disposal System Installer Permit pass an installer's test demonstrating their knowledge of Title V and the Rules of the Aquinnah Board of Health.
- 2.11.4 Before any excavation or installation of a septic system, the installer shall obtain a certified copy of the approved plan from the Board of Health. *Failure to do so may result in the revoking of the installer's Disposal System Installer Permit.*
- 2.11.5 The installer shall be responsible to provide to the Board of Health with an as-built plan, and system certification as provided above.

2.12 **Septage Hauler Permit**

- 2.12.1 No person shall remove and/or transport septage through the streets of Aquinnah without first registering with and obtaining a Septage Hauler Permit from the Board of Health.
- 2.12.2 Such permits shall expire at the end of the calendar year in which it was issued.
- 2.12.3 Duly registered persons may transport septage through the streets of Aquinnah in which said substances were not collected. A pump out permit must be in possession of the duly registered septage hauler when transporting septage through the streets of Aquinnah.
- 2.12.4 The hauler shall submit record of pump outs originating in Aquinnah to the Board of Health within two months or less.
- 2.12.5 *Septage haulers who fail to obtain the proper permits shall be fined \$100 per offense and may have their septage hauler permit suspended or revoked.*

2.13 **Portable Toilet Facilities (Porta Potty)**

- 2.13.1 All Porta potty installations for individual and businesses must be registered with the Board of Health and, on building sites, with the Building Inspector before delivery to the site. The temporary structure bylaw of the Town of Aquinnah allows use of such a structure only with a building permit or for other reasons which *must* be approved by the Board of Health.
- 2.13.2 *Portable Toilet installations intended for public use must be registered with the board, and a responsible person be designated to assure that proper maintenance is performed on a timely basis. Such responsible person must be an agent of the party requesting the placement of such a facility.*
- 2.13.3 *If such maintenance is neglected in the judgement of the Board of Health for any such facility; the property owner or responsible person may be fined, and the installation may be ordered by the Board of Health to be removed by the provider of the facility, with or without the concurrence of the property owner or responsible person.*

3 **FOOD SERVICE ESTABLISHMENTS**

- 3.1 All Residential kitchens, bed & breakfast, inn and temporary, non-potentially hazardous foods license holders in the Town, shall show evidence of having completed a minimum of four (4) hours of food safety and sanitary training within the prior three (3) years. ServSafe documentation, issued within the three (3) prior years, shall be provided.
- 3.2 All Food service establishments must comply with 105 CMR 590, Minimum Standards for Food Establishments, State Sanitary Code.
- 3.3 All Food service permit applications must be submitted to the BOH office thirty (30) days prior to the first day of business or will be subject to a \$75 expedited processing fee. If open without any license, a fee of \$100 will be added to their original permit fee(s).
- 3.4 No establishment shall be allowed to operate until all inspections have been passed and all fees have been paid in full.
- 3.5 Powwows require separate permits from each vendor.
- 3.6 A “Food Establishment Permit” shall be issued to a facility that serves sit down food.
- 3.7 *Any facility serving take out food to the public shall provide a minimum of two trash cans for the use of the public that are maintained regularly.*
- 3.8 **Enforcement:** Food establishments shall be inspected by the agent of the Board of Health per protocol. If an establishment fails the inspection, a remedial plan will be discussed with a turnaround time determined by the agent. If, after review, the identified issue has the potential for compromising public safety; the agent may suspend the license to operate until the issue has been resolved to the satisfaction of the agent.
 - 3.8.1 Should the establishment disregard the agent’s order to cease operation, the operator(s) may be fined \$100 per day until the conditions of compliance have been met per the agent.
 - 3.8.2 If the establishment continues to operate without a license to operate, such license shall not be considered for renewal until the relevant deficiencies have been resolved with the Board of Health.

4 **BOARDING ESTABLISHMENTS**

- 4.1 All establishments providing human habitation for recompense must apply for the appropriate permit, be inspected for compliance with public health regulations, and receive the appropriate license before they open for business. Such licenses shall have the term of January 1 to December 31 in any calendar year.
- 4.2 Year-round businesses that fail to renew their permit prior to January 1 or seasonal businesses that fail to renew their permit before the start of business may be required to pay a \$100 late fee.
- 4.3 *If boarding establishments serve more than a continental breakfast, they may be required to obtain a separate food preparation permit from the board.*

5 COMPLAINTS AND ADMINISTRATION

5.1 **Complaints**

- 5.1.1 *In compliance with 105 CMR 420, Housing and Sanitation Standards, the Board of Health shall investigate, within 30 days, all signed and written complaints of said regulation. A complaint form shall be available at the Board of Health office and is the preferred manner in which complaints should be made.*
- 5.1.2 In order for the Board of Health to act upon any complaint, it must be in writing, signed, and dated and delivered to the Health Agent in person by the complainant or an agent of the complainant.
- 5.1.3 Any complaint should reference the location, owner of the property (if known), nature of the complaint, reference to any physical evidence of a violation, and reference to any regulation that may have been violated and jurisdiction (if known).
- 5.1.4 Such written complaints shall be investigated within thirty (30) days, and the results of such investigation reported to the board.
- 5.1.4.1 The Aquinnah Board of Health allows intrusive inspections of private property, potentially compromising a citizen's right to privacy, only for "cause." "Cause" in this case, shall be no less than a written, signed complaint, citing evidence of a reasonable suspicion of a specific and egregious violation of a relevant code or ordinance related to personal or public health
- 5.1.4.2 If the investigating authority has reason to suspect non-cooperation of any person during the investigation, he or she may request a police escort.
- 5.1.5 The body of the complaint is public record. The subject of the complaint may request and be provided with a redacted copy of the complaint, with the name, address and signature of the complainant removed. Such redacted copy shall also be provided to the board. The complainant's identity will be held in confidence and not be made public except as may be required by law to law enforcement officials.
- 5.1.6 Only the Health Agent (and the chairman if appropriate) will see the original complaint.
- 5.1.7 Police and other Emergency Personnel, in their dealings with the public, are expected to initiate complaints to the Board of Health if they conclude that personal or public health may be at risk. They will initiate complaints as outlined above.
- 5.1.7.1 On the basis of a complaint from Emergency personnel, the Health Agent may request permission from the owner/occupant to enter the property with Police assistance for the purpose of conducting an inspection. If permission is denied, the Board or its agent may apply to the Dukes County District Court for an administrative search warrant to determine whether violations of the state sanitary code exist at the property or if personal or public health is at risk. The application shall be based on the observation contained in the reports and/or affidavits combined with the denial of access for the purpose of inspection. The Board of Health will await the court decision on an application before proceeding with action. The agent will report to the Board regarding the outcome of the inspection when it is performed.
- 5.1.8 In the case of an emergency the agent may proceed with enforcement action or may report findings to the Board of Health for determination of further action. The Board of Health will review the outcome of any inspection and determine what, if any, action is required.

5.2 Variances

- 5.2.1 Aquinnah Board of Health may, after a public hearing, vary the application of any provision of this code with respect to any particular case, when in its opinion the enforcement thereof would do manifest injustice, and the applicant has proven that the same degree on environmental protection required under this code can be achieved without strict application of the particular provision.
- 5.2.2 A public hearing will be posted fourteen (14) days prior.
- 5.2.3 Every variance request shall be made in writing stating the specific variance sought and the reasons therefore.
- 5.2.4 Direct abutter(s) within three hundred (300) feet of the subject property lines must be notified in writing by the applicant at least 14 days prior to the hearing at which time the request will be considered.
 - 5.2.4.1 The notice, a copy of which shall be provided to the Board of Health, shall state the variance sought, the reasons therefore, availability of any plans or supporting documentation, and the hearing date, time and place.
 - 5.2.4.2 Such notice shall be made by certified US mail, return receipt requested. The returned receipts, or other evidence that the notice had been received, shall be provided to the Board of Health before any public hearing may proceed.
- 5.2.5 Public Notice must also be inserted for two editions of a local newspaper prior to the date of the public hearing
 - 5.2.5.1 Proof of said public notice must be provided to the Board of Health prior to the date of the public hearing.
- 5.2.6 Any variance granted shall be in writing.
- 5.2.7 Any denial of a variance shall be made in writing and shall contain a brief statement of the reasons for denial.
- 5.2.8 Any variance may be subject to such qualification, revocation, suspension, or expiration as the Board of Health expresses in its grant. A variance authorized may otherwise be revoked, modified or suspended in whole or in part, only after the holder thereof has been notified in writing and has been given the opportunity to be heard.

5.3 Enforcement

- 5.3.1 The Board of Health or its Agent(s) may enter upon privately owned property for the purpose of conducting inspections, investigating violations of these regulations, and performing all other duties under these regulations.

5.4 Penalties

- 5.4.1 Any person, business, corporation, or other entity who violates any provision of these rules and regulations for which a penalty is not otherwise provided in any of the General Laws of the Commonwealth, or any other town, state or federal code, shall upon judgement by the Board of Health be fined not less than \$100 nor more than \$500. Each day's failure to comply with this code shall constitute a separate violation.
- 5.4.2 Any person aggrieved by the decision of the Board of Health may seek relief therefrom within thirty (30) days in any court of competent jurisdiction as provided by the laws of the Commonwealth.

6 **MISCELLANEOUS PROVISIONS**

- 6.1 **Demolition Permits**: The building inspector shall notify the Board of Health of any application for a demolition permit. The Board may, at its discretion, review such application before said permit may be issued and may attach conditions to any such permit when issued.
- 6.2 **Severability**: If any provision of these regulations of the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.
- 6.3 **Disclaimer**: The issuance of any permit or license shall not be construed as a guarantee of performance of any system or establishment. It shall only indicate that on the date of issuance the system or establishment has visibly met the requirements of the applicable regulations to the best of the board's ability to so determine.

7 **FERTILIZER REGULATIONS**

- 7.1 The Town of Aquinnah hereby adopts in full the Fertilizer Regulations as adopted by the other six towns of Martha's Vineyard and the Martha's Vineyard Commission in designating the Martha's Vineyard Lawn Fertilizer Control District. The full body of said regulations are available at:
<<http://www.mvcommission.org/sites/default/files/docs/DCPC%20Decision%20M%20V%20Lawn%20Fertilizer%20Control.pdf>>

8 **TOBACCO PRODUCTS**

- 8.1 Tobacco and other nicotine products will not be sold in the Town of Aquinnah.

9 **PROVISION FOR A SEPTIC INSTALLER WHO SERVES ON THE BOARD OF HEALTH**

- 9.1 By an unanimous vote at the Annual Town Meeting, the Town of Aquinnah has adopted the provision that a septic system installer who serves on the Board of Health may engage or work at the business of septic system installation within the area over which the Board of Health has jurisdiction while serving; provided, however, that neither the board member nor the board shall inspect a septic system installation done by said board member or said member's partner, employer, or co-employee. The inspection of work so done shall be by a design engineer unaffiliated with such member or by the board of health from another town.

10 **RULES AND REGULATIONS FOR BODY ART ESTABLISHMENTS AND PRACTITIONERS**

- 10.1 The Aquinnah Board of Health hereby adopts in full the rules and regulations as adopted by the Town of Tisbury, effective February 13, 2001, by reference.
- 10.2 Such rules are available at:
< <https://www.mass.gov/doc/body-art-establishments-model-regulations-0/download>>

11 **ADOPTION**

- 11.1 These rules were voted upon and adopted by the Aquinnah Board of Health at a Public Hearing January 9, 2020.

Appendix

1. Fee Schedule

a. Wells	
i. Well drilling permit	\$50
b. Sewage & Septic	
i. Disposal Works Permit	\$175
ii. Septic Installer's Permit	\$100
iii. Septic Repair or tie-in	\$50
iv. Septage Hauler License	\$50
v. Disposal of Night Soils (pump out)	\$25
vi. Porta Potty for public use	\$0
c. Food Service	
i. Food Service Establishment (Common Victualers)	\$300
(1) late permit application	\$75
(2) open without a license, late fee	\$100
ii. Over the counter Food License	\$150
iii. Residential Commercial kitchen	\$50
iv. Frozen Dessert	\$25
v. Temporary Food Permit	
(1) Caterer	\$150
(2) Limited Food Handling (inspection required)	\$25
(3) Prepackaged Food Only (no inspection)	\$10
d. Boarding	
i. Inn Holder's License	\$150
ii. Bed & Breakfast	\$150
iii. Late filing fee	\$100
e. Other	
i. Summer Camps (non-profit)	\$25
ii. Summer Camps (for profit)	\$50
iii. Bathing Beach Permit	\$25

2. Separations

a. Wells	
i. Subsurface sewage disposal area	150'
ii. Wetland	100'
iii. Septic Tank	50'
iv. Street Layout	25'
v. Other wells	50'
vi. Subsurface Drains	25'
vii. Underground petroleum tanks and distribution lines	100'
viii. High water mark of any body of water	25'
ix. Any property line	10'
b. Septic Systems	
i. To any well providing potable water	
(1) Leaching Facility	150'
(2) Septic Tank	50'
ii. To any wetland	
(1) Leaching Facility	150'
(2) Septic Tank	25'
iii. From any existing subsurface sewage disposal area	
(1) Leaching Facility	30'
(2) Septic Tank	10'
iv. From any saltwater body	
(1) Leaching Facility	150'
(2) Septic Tank	100'
v. From property line of property in separate ownership	
(1) Leaching Facility	30'
(2) Septic Tank	10'
vi. Eroding Coastal Bank	
(1) Leaching Facility	100'
(2) Septic Tank	100'
vii. Vertical separation to high seasonal water table	
(1) Leaching Facility lowest point	5'
(2) Septic Tank (tank must be waterproofed if <2')	0'

End