02

A Lower Cape reference

Title 5 & Flood Zones

Plain-English answers on the two issues that derail more Cape sales than anything else — the Title 5 & Flood Zone Cheat Sheet.

15 pages

Brewster · Chatham · Harwich · Orleans · Eastham



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Why this guide exists

If you only do three things

1. Find your Title 5 report and read the date. Valid two years before transfer, three with annual pumping records.
2. Ask your board of health whether you are in a Natural Resource Area — and know that whatever the answer, no individual upgrade deadline is running in your watershed. Page 3 explains why.
3. Look your flood zone up at msc.fema.gov. There is a better than nine-in-ten chance it is Zone X and there is nothing to do.

The rest of this guide is what to do in the cases where the answer is not the easy one.

Two topics scare more Lower Cape sellers than every other issue combined: Title 5 (the state's septic system rule) and FEMA flood zones. Both come up early in every transaction. Both are wildly misunderstood. And both are completely manageable when you know the basics.

This is your plain-English reference — not legal advice, just the things I find myself explaining to almost every seller in Brewster, Chatham, Harwich, Orleans, and Eastham.

> **The core principle**
>
> Neither Title 5 nor flood zone status will sink your sale on its own. What sinks deals is finding out about a problem too late — usually after a buyer is already under contract and has spent money on inspections. Surface these early, get real numbers, and you control the conversation.

1 PART

Title 5: The Septic Rule

Massachusetts Title 5 (310 CMR 15.000) is the state regulation that governs on-site septic systems. The vast majority of Lower Cape homes are on septic — town sewer is the exception, not the rule. Title 5 will apply to almost every Lower Cape sale.

When the inspection happens

- A Title 5 inspection must be done within 2 years before the sale — or within 6 months after, if weather conditions (frozen ground, snow cover) prevented inspection at the time of sale. Source: 310 CMR 15.301(1).
- A passing Title 5 inspection is valid for 2 years from the date of inspection — extended to 3 years if the system is pumped annually and records are kept. Source: 310 CMR 15.301(1).
- In practice, sellers commonly arrange and pay for the Title 5 inspection, though the purchase contract can allocate costs differently. Confirm with your attorney.

— The inspector files the inspection report directly with the town board of health within 30 days, and provides copies to seller and buyer. Source: 310 CMR 15.301(10).

What the inspector is looking for

— Whether the system is structurally sound (tank, distribution box, leaching field)

— Whether it has adequate capacity for the home

— Whether it shows signs of failure — backups, surface breakouts, hydraulic overload

— Whether it meets minimum setbacks from wells, wetlands, and water bodies

The three possible outcomes

PASS · CONDITIONAL PASS · FAIL

PASS — The system meets Title 5 standards. Good for 2 years (3 if annually pumped). No further action required for the sale.

CONDITIONAL PASS — System has issues that must be fixed within a defined timeframe (often 1–2 years). Sale can proceed; buyer and seller negotiate who handles what.

PASS · CONDITIONAL PASS · FAIL *continued*

FAIL — System needs repair or replacement. Sale can still happen. Typical paths: (1) seller repairs before closing, (2) buyer takes responsibility with a price credit, or (3) escrow is held at closing for the work.

Realistic costs (2026 ballpark)

Costs vary significantly by soil type, lot, and town. Get a local quote before making any decisions.

Item	Typical Lower Cape range
Title 5 inspection	$700 – $1,200
Septic tank pump-out	$350 – $600
Conventional system replacement	$25,000 – $40,000
Innovative / Alternative (IA) nitrogen-reducing system	$35,000 – $55,000+

continued

Item	Typical Lower Cape range
Permit & engineering (added to either above)	$3,000 – $7,000

A seller's best move on a known Title 5 issue

Sellers who surface a known issue — with a written estimate in hand — typically recover more in price than the repair cost, compared to a buyer who discovers the same issue mid-deal and uses it for a steep discount. Transparency with a number is a stronger position than silence.

⚓ The 2023 Cape Cod Watershed Rule

The short answer, as of September 2026

Every town on Cape Cod filed in time. The five-year clock that would have forced individual septic upgrades is not running in your watershed. What does apply to you as a seller is a disclosure — which is dealt with at the bottom of this page.

In July 2023 MassDEP amended Title 5 and designated Natural Resource Areas — watersheds carrying more nitrogen than their EPA-approved limit allows. Inside an NRA, the amendment required every existing septic system to be upgraded to Best Available Nitrogen Reducing Technology within five years: by 7 July 2028.

That is the version of the story most Lower Cape owners have heard, and it is the one you will hear quoted at you by anyone who would rather buy your house cheaply. Here is the part that followed, which travelled far less well.

Towns were given two years — until 7 July 2025 — to file a Notice of Intent to pursue a Watershed Permit instead. A Watershed Permit moves the obligation from individual homeowners onto the town, which then has roughly twenty years to take the nitrogen out its own way: sewer extension, shellfish aquaculture, targeted I/A installations, or some combination.

All fifteen Barnstable County towns filed before the deadline. Where a town holds or is pursuing a permit, the five-year individual upgrade requirement does not take effect in that watershed.

Your town	Where it actually stands
Brewster	Holds the Pleasant Bay watershed permit jointly with Chatham, Harwich and Orleans — the first watershed permit issued in Massachusetts — and has filed for its remaining watersheds.
Chatham	Same Pleasant Bay permit, plus filings covering its other embayments.
Harwich	Same Pleasant Bay permit, plus filings covering its other watersheds.
Orleans	Same Pleasant Bay permit, plus filings covering Nauset and Rock Harbor.

continued

Your town	Where it actually stands
Eastham	Was never required to file. Eastham is one of only two Cape towns — with Provincetown — outside the watershed permit requirement.

Designations follow watershed boundaries, not town lines, and a single town sits in several. So the town-level answer above is the shape of it; your parcel is a question for the board of health, and it is a two-minute call.

What this DOES mean for you as a seller

Massachusetts requires you to disclose. Before title transfers, the seller must tell the buyer — and the board of health — whether the system is subject to an upgrade requiring Best Available Nitrogen Reducing Technology. This applies even to a property already under agreement.

It is a disclosure, not an upgrade order, and it is handled routinely at closing. Ask your closing attorney which form your town uses. The thing to avoid is being the last person in the transaction to hear about it.

If someone tells you the Cape is about to force a $40,000 septic upgrade on you

They are describing a rule that was suspended in your watershed more than a year ago. Ask them which watershed they mean, and which permit. It is a fair question and it is usually the end of the conversation.

2 PART FEMA Flood Zones

Every property in the country sits in a FEMA flood zone. Most Lower Cape inland properties are in lower-risk zones (X). Properties near coast, salt marsh, kettle ponds, or low-lying wetlands are often in higher-risk zones (AE or VE). Knowing your zone — before a buyer's lender does — is essential.

Where Lower Cape homes actually sit — and why this section is shorter than you expect

Of 2,444 homes sold in the five towns over the last three years, 92.6 per cent were in Zone X: minimal risk, no federal flood insurance requirement. 3.6 per cent were in AE, 1.3 per cent in VE and 0.1 per cent in A. Roughly one house in twenty sits in a mapped high-risk zone.

The share NOT in Zone X, by town: Harwich 10.2 per cent · Chatham 7.6 · Eastham 6.6 · Brewster 6.2 · Orleans 4.6.

So for most readers this section is a five-minute check that ends in nothing. For the one in twenty it matters enormously, which is why the rest of it is here.

Cape Cod & Islands MLS, closed sales in Brewster, Chatham, Harwich, Orleans and Eastham, September 2023 – September 2026, n=2,444.

The zones, plain-English

Zone	What it means	Insurance
X (unshaded)	Minimal flood risk. Outside the 100- and 500-year floodplains.	Not federally required. Optional, often inexpensive.
X (shaded) / X500	Moderate risk. Inside the 500-year floodplain but outside the 100-year.	Not federally required. Recommended; usually low cost.
AE	High risk. Inside the 1%-annual-chance (100-year) floodplain, with an established Base Flood Elevation (BFE).	Required for federally backed mortgages. Premium varies.
VE	Coastal high-hazard. AE conditions plus expected wave action of 3+ feet during a flood event.	Required for federally backed mortgages. Highest premiums.

How to look up your zone

- Go to msc.fema.gov (FEMA's Map Service Center)
- Type in your property address
- View the FIRMette (Flood Insurance Rate Map) — your zone label is printed on the map

- Note the effective date of the FIRM panel — Cape Cod panels were updated in the mid-2010s and may update again

Risk Rating 2.0 — what changed

In late 2021, FEMA replaced its old zone-based pricing system with Risk Rating 2.0. Premiums are now calculated for each individual home based on its specific elevation, distance to water, cost to rebuild, and prior loss history — not just its zone.

- Two homes on the same block in the same zone can now have very different premiums.
- By federal law, any single annual increase under Risk Rating 2.0 is capped at 18%. Verify current cap with FEMA or your insurance agent.
- Existing NFIP policies may be assumable by the buyer — meaning they can take over your premium and established rate. Policy assumption is not automatic; confirm availability and procedures with your flood insurance agent and closing attorney. If your premium is favorable, this can be a meaningful seller talking point.

⚓ Cape Cod CRS Discounts

Every one of Arthur's five Lower Cape towns participates in FEMA's Community Rating System (CRS), which may give residents an automatic discount on NFIP premiums. CRS class ratings and discount percentages can change. Confirm your town's current CRS class and discount directly with FEMA (floodsmart.gov) or your town's floodplain manager before relying on specific figures.

All five Lower Cape towns take part in FEMA's Community Rating System, which discounts NFIP premiums for everyone in the town according to the floodplain work the town does. Cape towns typically earn a 5, 10 or 15 per cent discount, and the class is re-scored periodically. Your own declarations page already has the discount applied — so rather than chase the class number, read the premium. That is the figure a buyer will ask about.

How to talk about your zone with buyers

Don't hide it — own it

If you are in AE or VE, the worst thing you can do is hope the buyer doesn't notice. They will — at the lender's appraisal at the latest.

Pull your most recent flood insurance declarations page and have it ready to share. The annual premium is the number that matters; the zone designation is just shorthand.

If your home was built to current Base Flood Elevation, an Elevation Certificate (EC) can substantially reduce the premium. If you have one, dig it out. If you don't, your insurance agent can tell you whether getting one would pay for itself.

Highlight any assumable NFIP policy if your premium is favorable — confirm assumability with your insurance agent and closing attorney.

Let me look your property up

This is the part of a Lower Cape sale that people lose sleep over, and most of it resolves in about ten minutes at a desk.

Give me your address and I will come back with your Title 5 inspection status, whether your parcel sits in a Natural Resource Area, and your FEMA flood zone — in writing, so you have it before a buyer's attorney asks. It costs you nothing and it does not commit you to selling anything.

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About Arthur Radtke

I live here year-round, on the water in Orleans, and I work the five Lower Cape towns — Brewster, Chatham, Harwich, Orleans and Eastham.

What I don't have yet is a wall of testimonials. I am building this practice, and I would rather tell you that plainly than have you find it out. So I built the things I could build instead: this library, a sixteen-lesson course you can watch in full before you ever let me through your door, and a written thirty-point marketing plan that gets attached to the listing agreement — so the promises are on paper rather than in a conversation you have to remember afterwards.

About Arthur Radtke *continued*

Everything factual in this guide is sourced — the regulation, the section number, the data and where it came from. Check any of it. That is rather the point.

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- Guide 04 — Out-of-State Sellers Playbook
- Guide 05 — Should I Sell This Year? Decision Worksheet
- Guide 06 — Downsizing From a Cape Home Guide
- Guide 07 — The Lower Cape Agent Interview Guide
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This guide is general information for Lower Cape homeowners and is not legal, tax, or financial advice. Rules cited reflect our understanding as of publication; verify with the appropriate licensed professional before acting. Always confirm Title 5, watershed permit, flood zone, probate, and tax specifics with the relevant town board, attorney, or CPA.