

## 09.00 SPECIAL OVERLAY DISTRICTS:

Special Overlay Districts are districts with separate regulations, which are superimposed on the designated Zoning Districts. Where there is a conflict between the Zoning Bylaw and a Special Overlay District regulation or restriction, the more limiting shall prevail.

## 09.01 Coastal Districts:

Under the designation authority of Chapter 637 of the General Laws.

Administered by the Tisbury Planning Board.

## .01 Purpose:

To prevent flood damage, maintain water quality, assure adequate water supply, prevent pollution, promote wildlife habitats, assure the maintenance of cultural and historic sites and values, preserve and enhance the character of the views, prevent damage to structures, land and water as a result of erosion, promote economic development of fisheries and related industries, and maintain and enhance the overall economy of the Island.

## .02 Definition:

The Coastal Districts include the land, streams and wetlands of Tisbury which lie below the ten (10) foot elevation above mean sea level, or within five hundred (500) feet of mean high water of a coastal water body exceeding ten (10) acres, or the ocean; and also the land and water around Lake Tashmoo bounded by a line from Vineyard Sound to State Road which is one thousand (1,000) feet west of mean high water of the western shore of Lake Tashmoo, thence easterly along State Road to West Spring Street, thence easterly along the New Bedford Gas and Light Company power line to Meadow Path and Herring Creek Road to a point ten (10) feet above mean sea level.

## Exemption:

The shore land bounded on the north by Owen Little Way and proceeding southerly and easterly along the harborfront to the beginning of the Town property adjacent to the Lagoon Pond, thence

## 09.00 SPECIAL OVERLAY DISTRICTS:

## 09.01 Coastal Districts, Continued

## .02 Definition, continued

southeasterly and southerly along Lagoon Pond to a point opposite the juncture of Skiff Avenue at Lagoon Pond Road.

The Coastal Districts shall include the area bounded on the south by Owen Little Way, thence around West Chop to the point where West Chop Lane intersects the ten (10) foot contour line.

## .03 Establishment of Zones in the Coastal Districts:

## Shore Zone:

Consisting of the land from mean low water to one hundred (100) feet inland of the inland edge of any beach or marsh grasses, and one hundred (100) feet inland of the crest of any bluff exceeding a height of fifteen (15) feet.

## Inland Zone:

Consisting of all land within the Coastal Districts, except the Shore Zone.

## .04 Uses Permitted:

Only those uses permitted in the respective Zoning Districts which are consistent with the fragile nature of the area, such as outdoor recreation, conservation purposes and agricultural purposes.

Within the Inland Zone, permitted uses also include detached single-family dwelling and non-habitable, minor accessory structures normally used for personal, family and household purposes, which are subject to the regulations of Section 09.01.06.

## .05 Uses Requiring Permit from the Board of Appeals:

## Within the Shore Zone:

- Non residential structures and uses - containing no plumbing fixtures;

09.00 SPECIAL OVERLAY DISTRICTS:

09.01 Coastal Districts, Continued

.05 Uses Requiring Permit from the Board of Appeals, cont.

- Additions to existing residential structures;

provided that:

-Additions to existing residential structures and/or the reconstruction of any new non-residential structures shall be no greater than five hundred (500) square feet of

interior and exterior gross floor area, including changes and/or expansions of use.

-The five hundred (500) square feet of additions may be applied for and permitted incrementally but the total of all additions and/or new construction shall not exceed five hundred square feet, regardless of any change of ownership including any previous approvals.

(Amend Section 09.01.05: April 13, 1999 - Acting on Article 12; April 11, 2000 - Acting on Article 22 and on February 20, 2007 - Acting on Article 19)

.06 Regulations and Restrictions:

The regulations and restrictions of the respective Zoning Districts shall apply subject to the following:

Wetlands:

As determined by the Tisbury Conservation Commission and set forth in its rules and regulations.

Health:

As determined by the Tisbury Board of Health and set forth in its rules an regulations.

Height of Structures:

The maximum height of structures as measured vertically from the mean natural grade level shall be as follows:

09.00 SPECIAL OVERLAY DISTRICTS

09.01 Coastal Districts, Continued

.06 Regulations and Restrictions, cont.

Twenty-four (24) feet for a pitched roof and thirteen (13) feet for a flat or shed roof (which is a roof of pitch one (1) in four (4) or less).

The Board of Appeals may grant a Permit to modify the height restrictions of the Coastal Districts in a specific instance, if it finds such modification consistent with the character of the

neighborhood and the purpose for which the District was created.

.07 Administration:

Any application for a permit or special permit as provided for in this section 09.01 shall require referral to the Site Plan Review Board as described in Section 10.06.01.

(Amend Section 09.01.07: April 29, 2014 - Acting on Article 19)

09.02 Tisbury Island Road Districts:

Under the designation authority of Chapter 637 of the General Laws.

Administered by the Tisbury Planning Board.

.01 Purpose:

To allow for safe access and travel along the roads, and to protect the visual character diversity of landscape and historic features of the journey along the roads.

.02 Definition:

The Major Road District consists of the area lying within two hundred (200) feet of the right of way of the following roads:

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.02 Tisbury Island Road Districts, cont.

- that part of State Road from the Oak Bluffs bounds west to the West Tisbury town line;
- that part of Lambert's Cove Road from the State Road to the West Tisbury town line;
- that part of the Edgartown-Vineyard Haven Road from the intersection of Cromwell Street to the Oak Bluffs town line.

## .03 Uses Permitted:

Any residential, recreational, agricultural or open space use as permitted in the respective Zoning District subject to the regulations and restrictions set forth herein.

## .04 Regulations and Restrictions:

No stone wall shall be moved, removed or otherwise altered, except for repair, except by Permit.

Any additional vehicular access to the public road must be at least one thousand (1000) feet, measured on the same side of the road from any other vehicular access, except that if this requirement would prevent at least one (1) access to a public road from each lot held in separate ownership from the lots contiguous thereto as of October 23, 1975. Each such lot shall be allowed a single access which shall be located as far as practicable from all other such ways located on either side of the road.

No land shall hereafter be divided or sold if such lot or lots would not be entitled to a way to provide vehicular access to a public road as provided herein.

The Board of Appeals may grant a Permit to allow access(es) at a closer interval than provided herein.

Applications for accesses shall be made to the Tisbury Department of Public Works.

09.0 SPECIAL OVERLAY DISTRICTS

09.02 Tisbury Island Road Districts, cont.

.04 Regulations and Restrictions, cont.

(Amended Section 09.02.04: April 25, 26, and 27, 1995 - Acting on Article 46)

Height of Structures:

The maximum height of structures erected in the Tisbury Island Road Districts shall be:

<u>Minimum Front Setback*</u>	<u>Maximum Height**</u>
50 feet***	21 feet
53	22
56	23
59	24
62	25
65	26
68	27
71	28
74	29
77	30
80	31
83	32
86	33
89	34
92	35****

\* shortest distance to nearest public way line.

\*\* measured from mean grade elevation of the Island Road along frontage of lot to highest point of building.

\*\*\* No structure shall be set back less than 50 feet.

\*\*\*\* see Schedule A.

The Board of Appeals may grant a Permit to modify the height restrictions of the Tisbury Island Road Districts in specific instances, if it finds such modification consistent with the character of the neighborhood and the intent of the District.

09.00 SPECIAL OVERLAY DISTRICTS

09.02 Tisbury Island Road Districts, cont.

05 Administration:

Any application for a permit or special permit as provided for in this section 09.02 shall require a referral to the Site Plan Review Board as described in Section 10.06.01.

(Amended Section 09.02.05: April 29, 2014 - Acting on Article 20)

09.03 SPECIAL WAYS DISTRICTS:

Under the designation authority of Chapter 637 of the General Laws.

There are no Special Ways designated in the Town of Tisbury.

09.04 SCENIC ROADS

Administered by the Tisbury Planning Board.

.01 Designated Scenic Roads

The public portion of the Lambert's Cove Road. (Adopted by Town Meeting vote, May 4, 1976).

.02 Regulations and Restrictions:

Any repair, maintenance, reconstruction or paving work done with respect to the designated Scenic Roads shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board, after a public hearing.

09.05 FLOOD/STORM DISTRICT

.01 Purpose:

To promote the health, safety, and general welfare of the inhabitants of the Town of Tisbury by ensuring that structures, facilities, and uses are sited, constructed, and arranged so as to preclude or minimize Flood/Storm effects.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.05 Flood/Storm District, Continued

## .01 Purpose, cont.

To protect the economic well being of the Town of Tisbury and its inhabitants by preventing burdensome property and employment losses.

To make available to the inhabitants of the Town of Tisbury Flood Insurance (under the National Flood Insurance Program) and to the Town of Tisbury eligibility for federal disaster relief funds by establishing and maintaining a qualifying Flood/Storm Program conforming to the "Flood Disaster Protection Act of 1968" (Title 13 of the Housing and Urban Development Act of 1968 - Public Law 90-448), 42 U.S.C. 4001-4128 and 44 CFR 67, the specific enumerations found in 44 CFR section 60,3(e) and such amendments thereto as are applicable.

To accomplish the purposes set forth in the above three paragraphs by uniform administrative procedures, conformity with land and water use policies, and in keeping with objectives to preserve the character of Tisbury's waterfronts.

## .02 Definition:

The Flood /Storm District is herein established as an overlay district to all other districts. The District includes all special flood hazard areas within the Town of Tisbury designated as Zone A, AE or VE on the Dukes County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Dukes County FIRM that are wholly or partially within the Town of Tisbury are panel numbers 25007C0082H, 25007C0083H, 25007C0084H, 25007C0101H, 25007C0102H, 25007C0103H, 25007C0104H and 25007C0111H dated July 6, 2010.

The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 6, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.05 Flood/Storm District, Continued

## .02 Definition, continued

All development in the district, comprised of all land in the Town of Tisbury inland of the Mean Low Water (MLW) line lying along the shores of Lake Tashmoo, Vineyard Sound, Vineyard Haven Harbor and Lagoon Pond, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code which addresses flood plain and coastal high hazard areas (currently 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");
- Section of the Massachusetts State Building Code which addresses flood plain and coastal high hazard areas (currently 780 CMR 2102.0, "Flood Resistant Construction");
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- .03 "Within the Flood\Storm District, no redevelopment shall be permitted within a V or AO Zone as depicted on the Dukes County Flood

Insurance Rate Maps as described in Section 09.05.02."

Man-made alteration of sand dunes within Zones VE, which would increase potential flood damage are prohibited.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.05 Flood/Storm District, Continued

All new construction within Zones VE, must be located landward of the reach of mean high tide.

## .04 Basis:

Administrative and regulatory address to construction, facilities, uses and arrangements shall be based upon:

- Mean Sea Level (MSL) elevation as determined by the "National Geodetic Vertical Datum of 1929" (NGVD -1929); and
- The Federal Insurance Rate Maps.

Coastal and Elevation Data Plans are a required attachment for all properties in the Town of Tisbury located within the AE and VE Zones, as defined by the Dukes County Flood Insurance Rate Maps.

## .05 Flood/Storm Rules and Regulations:

The cognizant Board, Commission or Official may require certifications by a Massachusetts Registered Professional Engineer(s) as to situations, designs, data, calculations, statements of effect or non-effect, values, ratings, specifications, etc..

## .06 Exceptions, Waivers and Appeals:

The applications, procedures and requirements relating to *EXCEPTIONS* (whether considered in the form of "Special Permits" or in the form of "Variances"), *WAIVERS* (pertinent only to Rules and Regulations) and *APPEALS* (whether an appeal from a determination or alleging a failure to act) are set forth in Chapter 40A (MGL), elsewhere in the Zoning Bylaws and in the established administrative procedures of the cognizant Board, Commission or Official.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.05 Flood/Storm District, Continued

## .07 Compliance:

The Building/Zoning Inspector shall:

- make site inspections and determinations of physical and use compliance in matters of specification particulars;
- ensure that the plans and specifications submitted as a part of Building Permit Applications comply; and,

## .08 Enforcement:

The Building/Zoning Inspector shall enforce program or permit specification particulars, and the conditions and restrictions imposed by Special Permits, Waivers, Variances, and Appeal determinations, as provided for in Chapter 40A (MGL) and elsewhere in the Zoning Bylaws.

In the manner, and to the extent, provided by law, cognizant Boards, Commissions and Officials may obtain enforcement of procedural, class or category requirements by such processes as 'cease and desist orders', 'unfit for habitation or occupancy closures', and 'revocation or suspension of authorization'.

## .09 Interpretation:

Notwithstanding any other Town of Tisbury Bylaw, this Section 09.05 (Flood/Storm District) and its provisions shall be determinative with regard to Flood/Storm hazards, the prevention or mitigation of Flood/Storm effects and the maintenance of qualifying status under the National Flood Insurance Program.

In the interpretation and application of this Section 09.05 (Flood/Storm District), all provisions shall be:

- considered as minimum requirements;
- liberally construed in favor of the Town of Tisbury;

09.00 SPECIAL OVERLAY DISTRICTS

09.05 Flood/Storm District, Continued

.09 Interpretation, cont.

- deemed neither to limit nor repeal any other powers granted under the statutes of the Commonwealth of Massachusetts.

.10 Penalties:

Whosoever violates the provisions of this Section 09.05 (Flood/Storm District) and the Rules and Regulations herein authorized and legally adopted may be fined two hundred dollars (\$200) for each violation and for each day each violation continues after notice or such lesser amount as may be set by statute.

(Amend Section 09.05.00: April 25, 26, and 27, 1995 - Acting on Article 48; and on April 6, 2010 - Acting on Article 12)

09.07 HISTORIC DISTRICTS:

Designated Historic Districts:

- William Street Historic District:  
Administered by the William Street Historic District Commission.

Adopted by Town Meeting vote May 6, 1975

09.08 THE WETLANDS RESTRICTIVE ACT:

Under Chapter 130, Section 105 of the General Laws.

Administered by the Massachusetts Department of Environmental Management.

09.09 THE WETLANDS PROTECTION ACT:

Under Chapter 131, Section 40 of the General Laws.

Administered by the Tisbury Conservation Commission.

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, CONT.

.01 Marine Districts:

<u>DISTRICT</u>	<u>DESCRIPTION*</u>
MD-1	Lake Tashmoo, including the area within a 300 yard radius of the seaward end of the East Jetty at the Vineyard Sound entrance of Lake Tashmoo.
MD-2	Vineyard Sound (1)
MD-3	Nantucket Sound (1)
MD-4	Vineyard Haven Outer Harbor (2)
MD-5	Vineyard Haven Inner Harbor (3)
MD-5A	West Area - Vineyard Haven Inner Harbor: The area West of the Main Channel and seaward of the 'Head-of-the-Harbor'.
MD-5B	East Area - Vineyard Haven Inner Harbor: The area East of the Main Channel and seaward of the 'Head-of-the-Harbor'.
MD-5C	Head-of-the-Harbor - Vineyard Haven Inner Harbor: The area Southwest of a line through the main section of the principal breakwater (a/k/a/ the Vineyard Haven Breakwater and 'The State Breakwater') in Vineyard Haven Harbor.
MD-5C1	East Mooring Area - Head-of-the-Harbor:

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, CONT.

.01 Marine Districts, cont.

The area East of the Main Channel and North and West of the Southeast Channel.

DISTRICT

DESCRIPTION

MD-5C2

West Mooring Area - Head-of-the-Harbor:

MD-5D

The area West of the Main Channel.

West Arm - Lagoon Pond:

The area between Hines Point and Beach Road; divided from the East Arm of Lagoon Pond by a line from the most northerly part of North Head on Hines Point to a point on the Tisbury - Oak Bluffs town line at Latitude  $41^{\circ}27' - 19.63''$ , Longitude  $70^{\circ}35' - 8.97''$ , thence along said line to Lagoon pond Bridge.

MD-6

East Arm - Lagoon Pond:

All of the Lagoon Pond area in the Town of Tisbury not included in the description of the West Arm of Lagoon Pond.

\* Except as noted, all district boundaries over the water extend to Tisbury's corporate limits. Boundary shore points and landward limits lie along the Mean Low Water line; there the Marine Districts interface with the land districts.

- (1) Vineyard Sound is divided from Nantucket Sound by a line drawn from Nobska Point Lighthouse to West Chop Lighthouse.
- (2) Vineyard Haven Outer Harbor is divided from Nantucket Sound by a line drawn from West Chop Lighthouse to East Chop Lighthouse.

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, CONT.

.01 Marine Districts, cont

- (3) Vineyard Haven Inner Harbor is divided from Vineyard Haven Outer Harbor by a line which extends the Tisbury - Oak Bluffs town line through Lagoon Pond Bridge westerly to the West shore of Vineyard Haven Harbor.

.02 Designated Channels

<u>CHANNEL</u>	<u>DESCRIPTION*</u>
DC-1	Lake Tashmoo Entrance Channel: The channel connecting Lake Tashmoo with Vineyard Sound. In Lake Tashmoo the channel begins 100 yards south of the north end flats, thence continues northerly through the opening in the barrier beach to a point in Vineyard Sound 300 yards beyond the outer end of the East side Jetty.
DC-2	Vineyard Haven Harbor Main Channel: The channel marked by a U.S. Coast Guard buoy/ATN system and running the length of Vineyard Haven Harbor. The channel begins in Nantucket Sound at #2 Lighted Red Gong Buoy and, as marked, runs to the end of Union Wharf at the Head-of-the-Harbor.
DC-3	Head-of-the-Harbor Southeast Channel: The channel which begins at the Head-of-the-Harbor boundary line Head-of-the-Harbor Southeast Channel, continued: off the outer end of the breakwater and runs off the southeast shore and east of the East Mooring Area and thence off the south/southwest

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, CONT.

.02 Designated Channels, Cont.

CHANNEL

DESCRIPTION\*

DC-3	shore and south/southeast of the East Mooring Area to a point off the end of Union Wharf and there joins the Vineyard Haven Harbor Main Channel.
DC-4	Head-of-the-Harbor Breakwater Back Channel: The channel which separates the breakwater from the shore and runs between the breakwater and the jetty to the north.
DC-5	Lagoon Pond Entrance Channel: The channel through Lagoon Pond Bridge which connects Lagoon Pond with Vineyard Haven Harbor. In Vineyard Haven Harbor the channel begins 100 yards west of the outer end of the Eastville Point Jetty; in the Lagoon Pond the channel begins at the town channel marker nearest to the Lagoon Pond Bridge.
DC-6	Lagoon Pond West Arm Channel: The channel which begins at a juncture with the Lagoon Pond Main Channel and crosses Hines Point Flats in a general east/west direction; thence, off North Head, runs generally southwest through Hines Point Causeway Ruins to the head of water in the West Arm of Lagoon Pond.

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, CONT.

.02 Designated Channels, Cont.

CHANNEL

DESCRIPTION\*

DC-7

Lagoon Pond Main Channel:  
The channel which begins at the east end of the Lagoon Pond Entrance Channel and continues, as marked by a buoy system, the head of water in the East Arm of Lagoon Pond.

\*Note:

The hereinabove channel designations and descriptions DO NOT imply any suitability for navigation.

WARNING!

Channels vary greatly with respect to depth, width, alignment, currents and other factors relating to safe use. Local mariner advice or assistance is suggested.

.03 Interpretation:

The geographical and man-made features employed in the hereinabove Sections 09.10, 1) and 2) descriptions and designations are those existent at the time these Bylaw amendments were adopted. Changes to these features do not imply changes to the descriptions and designations contrary to context or necessity.

09.11 GROUNDWATER PROTECTION DISTRICT (Special Overlay District[s])

01. Purpose of District:

The purpose of this Groundwater Protection District is:  
a. to promote the health, safety, and general welfare of the community by ensuring an adequate quality and

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

## 01. Purpose of District, cont.

- b. quantity of drinking water for the residents, institutions, and businesses of the Town of Tisbury;
- c. to preserve and protect existing and potential sources of drinking water supplies;
- d. to conserve the natural resources of the town; and
- e. to prevent temporary and permanent contamination of the environment.

## 02. Scope of Authority

The Groundwater Protection District is an overlay district superimposed on the zoning districts, i.e. Residential District Ten (Zoning Map symbol R-10), Residential District Twenty (Zoning Map symbol R-20), Residential District Fifty (Zoning Map symbol R-50), Residential District Three Acres (Zoning Map symbol R3A) and Business District Two (Zoning Map B-2). This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

## 03. Definitions

For the purposes of this section, the following terms are defined below:

**Aquifer:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

**Groundwater Protection District:** The zoning district defined to overlay other zoning districts in the Town

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

## 03. Definitions, cont.

of Tisbury. The groundwater protection district may include specifically designated recharge areas.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

Mining: The removal or relocation of geological materials such as topsoil, sand, gravel, metallic ores or bedrock.

Potential Drinking Water Sources: Areas, which could provide significant potable water in the future.

Recharge Areas: Areas that collect precipitation or areas may include areas designated as Zone I, Zone II or Zone III.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Tisbury. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

## 04. Establishment and Delineation of Groundwater Protection District

For the purposes of this district, there are hereby established within the town, certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on the map entitled "Zoning

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

## 04. Establishment and Delineation of Groundwater Protection District, cont.

Map, Town of Tisbury, Massachusetts" as the Ground Water Protection District (Zoning Map symbol G.P.D.). This map is at a scale 1"=800 ft. and is on file in the Offices of the Planning Board and Town Clerk.

(Amend Section 09.11.04: March 25, 2003 - Acting on Article 15)

## 05. District Boundary Disputes

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a Special Permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should be located. At the request of the owner(s), the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and shall charge the owner(s) the total cost of the investigation.

## 06. Use Regulations

In the Groundwater Protection District the following regulations shall apply:

## 06.01 Permitted Uses

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

a. conservation of soil, water, plants, and wildlife;

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.11 GROUNDWATER PROTECTION DISTRICT (Special Overlay District[s]) CONTINUED

## 06. Use Regulations, continued

## 06.01 Permitted Uses, cont.

b. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;

c. foot, bicycle and/or horse paths, and bridges;

d. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;

e. maintenance, repair, and enlargement of any existing structure, subject to Section 06.02 (prohibited uses) and Section 06.03 (special permitted uses);

f. residential development, subject to Section 06.02 (prohibited uses) and Section 06.03 (special permitted uses);

g. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 06.02 (prohibited uses) and Section 06.03 (special permitted uses);

h. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.

i. Municipal Wastewater Treatment facilities which discharge outside the Groundwater Protection District.

## 06.02 Prohibited Uses

The following uses are prohibited:

a. landfills and open dumps as defined in 310 CMR 19.006;

b. storage of liquid petroleum products, except the following:

1. normal household use, outdoor maintenance, and heating of a structure;

2. waste oil retention facilities required by statute, rule, or regulation;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06. Use Regulations, continued

06.02 Prohibited Uses, cont.

3. emergency generators required by statute, rule or regulation;

4. emergency generators required by statute, rule or regulation;

5. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters;

provided that such storage, listed in items 1 through 4 above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;

c. landfilling of sludge or septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

d. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

e. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

f. storage of animal manure unless covered or contained in accordance with the specifications of the United States Soil Conservation Service;

g. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;

h. facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.000, as amended, except for;

1. very small quantity generators as defined under 310 CMR 30.000;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06. Use Regulations, continued

06.02 Prohibited Uses, cont.

2. household hazardous waste centers and events under 310 CMR 30.390;
3. waste oil retention facilities required by MGL Chapter 21, Section 52A;
4. water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;

i. automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1;

j. non-sanitary treatment works which discharge to the ground and that are subject to 314 CMR 5.00, except the following:

1. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
2. treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater;

k. storage of hazardous materials, as defined in MGL Chapter 21E, unless in a free standing container within a building or above ground with adequate secondary containment adequate to contain a spill the size of the container's total storage capacity;

l. stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;

m. storage of commercial fertilizers, as defined in MGL Chapter 128, Section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06. Use Regulations, continued

06.03 Uses and Activities Requiring a Special Permit

The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

a. enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;

b. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section .02). Such activities shall require a Special Permit to prevent contamination of groundwater;

c. any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be

provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are unfeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

06.04 Procedures for Issuance of Special Permit

01. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Tisbury Planning Board. Such Special Permit shall be granted if the SPGA determines that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a Special Permit under this section unless the petitioner's application materials include, in the SPGA's opinion,

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06.04 Procedures for Issuance of Special Permit, cont.

sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The special permit application shall be accompanied with a fee. The SPGA shall document the bases for any departures from the recommendations of the other town boards or agencies in its decision.

02. Upon receipt of a complete Special Permit application, the SPGA shall transmit one copy to the Board of Health, the Conservation Commission, the Department of Public Works and Tisbury Water Works Commissioners for their written recommendations. Failure to respond in writing within in 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

03. The SPGA may grant the required Special Permit only upon finding that the proposed use meets the following standards, those specified in Section 6 of this Bylaw, and any regulations or guidelines adapted by the SPGA. The proposal use must:

a. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and

b. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

.04 The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the municipality.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

## 06.04 Procedures for Issuance of Special Permit, cont.

.05 The applicant shall file eight (8) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

a. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on a premises in quantities greater than those associated with normal household use;

b. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:

1. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;

2. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;

3. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection;

c. proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06.04 Procedures for Issuance of Special Permit, cont.

.06 The SPGA shall hold a hearing, in conformity with the provision of MGL Chapter 40A, Section 9, within 65 days after the filing of the application and after the review by the Town Boards, Departments, and Commissions.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, Section 11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as granting of the permit. However, no work shall commence until a certification is recorded as required by MGL Chapter 40A Section 11.

.07 Written notice of any violations of this bylaw shall be given by the Zoning Enforcement Officer as soon as possible after detection of a violation or continuing violation. Notice to the assessed owner(s) of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

The cost of containment, clean-up, or other action of compliance shall be borne by the owner(s) and operator(s) of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Zoning Enforcement Officer may order the owner(s) or operator(s) of the premises to remedy the violation. If said owner(s) and/or operator(s) does not comply with said order, the Zoning Enforcement Officer will enter the premises under the terms of the special permit or otherwise, may act to remedy the

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT, CONTINUED

06.04 Procedures for Issuance of Special Permit, cont.

violation. The remediation cost shall be the responsibility of the owner(s) and operator(s) of the premises.

.08 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

(Adopted Section 09.11: April 13, 1999 - Acting on Article 14)

09.12 WILD AND SCENIC NORTH SHORE DISTRICT

01. Purpose:

To protect the wild and scenic natural beauty of the District from undue visual intrusion; to allow the unimpeded natural processes of littoral drift to occur, providing continuous beach nourishment along the length of the North Shore; to protect wildlife habitats; to prevent obstruction to navigation, throughout the District: to protect against storm damage that may be caused or exacerbated by inappropriate development; to allow economic development of fisheries and related industries.

.02 Definition:

The Wild and Scenic North Shore District consists of the waters and the lands under the water, beginning at the easterly boundary of land of the United States of America, known as Tisbury Assessors' Parcel 2H2 and thence along the Mean Low Water Line of Vineyard Sound, in the Town of Tisbury, in a generally southwesterly direction, to the corporate bounds of the Towns of Tisbury and West Tisbury, and extending 100 feet seaward from said Mean Low Water Line.

This regulation shall be applied vertically above and below the surface of waters included in the District.

## 09.00 SPECIAL OVERLAY DISTRICTS

## 09.12 WILD AND SCENIC NORTH SHORE DISTRICT, CONTINUED

## .03 Permitted Uses:

Subject to the Rules and Regulations as are from time to time issued by the Harbor Master pursuant to the authority granted to him under M.G.L. C. 90B, 91 and 102 and, further subject to the granting of licenses and/or permits required by the Town, State or Federal boards or agencies exercising authority granted to them by law other than M.G.L. 40A, uses which are consistent with the fragile nature of the area, such as recreational fishing and boating, and which do not involve the permanent placement of any new fill, structure or other materials, are permitted. Commercial fishing, shellfish and aquaculture activities are permitted, so long as those activities are duly licensed and do not require the placement of any permanent fill or structure. Routine maintenance of the inlets at Lake Tashmoo and Mink Meadows is permitted. Maintenance of any fill or structure in existence as of the date of adoption of this regulation is permitted. Beach Nourishment is permitted.

## .04 Uses by Special Permit:

The Zoning Board of Appeals may issue a Special Permit for permanent placement of any fill or structure for municipal purposes or for purposes of commercial fishing, shell fishing or aquaculture.

Commercial dock permits shall be reviewed annually by the appropriate town authority. Such structures shall be removed when and if the commercial use is discontinued. Such Special Permit shall be granted only after the Zoning Board of Appeals:

A. Has reviewed and given due consideration to the written recommendation of the Conservation Commission. Upon receipt of the Special Permit application, the Zoning Board of Appeals shall forward a copy of the application to the Conservation Commission for comment. Failure of the Conservation Commission to submit its written recommendation to the Zoning Board of Appeals within 21 days of the initial filing of the Special Permit application shall be deemed a favorable recommendation. The Zoning Board of Appeals may also

09.00 SPECIAL OVERLAY DISTRICTS

09.12 WILD AND SCENIC NORTH SHORE DISTRICT, CONTINUED

.04 Uses by Special Permit, cont.

consider the recommendation of other authorities familiar with the District and its resources. And B. Has determined that the proposed fill or structure is consistent with the Purpose of this By-Law and with the provisions of the Tisbury Open Space Plan as from time to time adopted.

.05 Prohibited Uses:

All other uses not permitted by right or by Special Permit are prohibited.

(Adopted on April 9, 2002 - Acting on Article 15)