

COASTAL DISTRICT AND BARRIER BEACH REGULATIONS

09.9 COASTAL DISTRICT AND BARRIER BEACH REGULATIONS

09.9.1 Scope

The Coastal District Regulations are applicable as overlay regulations. Where there is a conflict between these regulations and other applicable statutes, codes, regulations or by-laws, the more restrictive shall prevail. NOTE: Overlay Districts Board of Health Regulations 09.10.

(1) District Description

The Coastal District is comprised of all land in the Town of Tisbury which lies below the twenty (20) foot elevation above mean sea level, or within 500 feet of mean high water of a coastal water body exceeding ten (10) acres. Where the elevation contour line lies along any surface or a steep slope, cliff, bank, dune or ravine, the Coastal District also extends to a line of one hundred (100) feet from the crest of the slope, cliff, bank, dune or ravine. (Steep as used here means having an average inclination/slope greater than one (1) foot or rise/vertical measure per three (3) feet or run distance/horizontal measure. Any property with fifty (50) percent or more of total acreage, excluding wetlands, lying within the twenty (20) foot elevation will be considered the Coastal District by definition.

Boards of Health are charged with the protection of the public health and environment and fulfill their duty by developing, implementing and enforcing health policies. It is not the intention of the Board to over-regulate but to keep laws to a minimum while fulfilling their duty to protect the health of the environment and public. Creating buffer zones around coastal areas is an important way to limit the adverse effects of development. It is the intention of this policy to limit the amount of sewage, fertilizers and other runoff that enters coastal waters. The Board reserves the right to grant waivers to the regulation, (Barrier Beach excluded). The Board may restrict or limit the waiver to any extent, form or requirement the Board finds proper. A waiver shall become effective when evidenced in writing and signed by at least two (2) members of the Board of Health.

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09.9.2 Designated Barrier Beach

For the purposes of this regulation, the Designated Barrier Beach is shore and near shore land which:

- lies entirely within and is part of the Coastal District
- has, on the ocean side an over the ocean clear wind fetch of two (2) nautical miles
- is predominately below the ten (10) foot elevation contour lines
- separates the ocean from interior salt, brackish or fresh water bodies, marshes, wetland; and/or their surrounds
- is characterized by highly permeable soil
- is flood prone
- severely constrains the safe siting of on-site wastewater disposal systems and/or potable water wells
- is a high risk area with respect to human health and safety as well as environmental and ecological concerns arising from human habitation and other uses
- includes all of lots 29-A-1 through 4, 30-A-1 through 10, 30-B-1 through 3, 31-A-1 through 6, 31-B-1 through 13.1, 32-A-1 through 1.2, 32-B-1, 32-C-1 through 8.1, 32-D-1 through 8.1, 59-A-1 through 3, 59-B-1 through 3
- includes that portion of lots 30-C-1 and 31-C-1 through 3 which lie below the ten (10) foot elevation contour line.

09.9.3 Purpose and Authority

(1) The purpose of the Coastal District Regulations is to safeguard the quality of ground and surface waters, prevent pollution and saltwater intrusion into the groundwater, maintain the viability of fishing and shellfishing areas, control wastewater disposal and prevent or mitigate health hazards arising from flood or storm conditions.

(2) These regulations are adopted under the authority of Chapter 11, section 31, MGL. 4/22/85

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09.9.4 Application

(1) These regulations are applicable to the Coastal District, including the Designated Barrier Beach, certain additional and/or more stringent regulations apply only to the Designated Barrier Beach.

(2) Designated Barrier Beach: Until the Massachusetts Department of Environmental Quality Engineering has approved design types, established minimum specifications and set standards for on-site wastewater disposal systems which return potable quality water to the ground:

- no new, excluding replacements required by the Board of Health, or enlarged wastewater disposal systems will be permitted;
- no existing dwelling shall be modified in any manner so as to provide for an increase in occupancy or intensity of use, including but not limited to extending use periods;
- no existing dwelling shall increase the number of wastewater generating devices nor replace existing devices with those of greater capacity (rate or volume); and
- the installation of wastewater disposal systems, whether new, replacement or renovation, shall be such as not to substantially alter the natural grade or be elevated (i.e. mounded); further, the Board of Health may require leaching fields in lieu of pits.

The above restrictions are use constraining due primarily to the fact that approved technological alternatives are not currently available. The application aspects of these constraints will be reviewed and amended as approved technological alternative, appropriate to the geographic/topographic conditions of the Designated Barrier Beach, become available.

Compliance with the other regulatory requirements, set forth herein elsewhere, can be acquired with existing technology.

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09.9.5 Private Water Supply Wells

(1) This section is applicable to PRIVATE ON-SITE POTABLE WATER SUPPLY WELLS.

(2) Where connection to the municipal water supply mains is considered practical, the Board of Health may not allow on-site private wells. Private off-site potable water supply wells will not normally be permitted, excepting an authorization for temporary and/or emergency use.

(3) Private potable water supply wells must be installed*, proven*, and tested* before the Board of health will accept an application for an on-site wastewater disposal facility (disposal works permit application). [In practice the Board of Health accepts application for wastewater but does not issue the aforementioned permit without compliance of 09.3.1(3)].

* Installed means the complete installation of a system designed or intended to deliver potable from a groundwater source to the surface; it does not include the delivery system from the well site to the point of use. The term installed means in place and operational including draw works, casting, gravel fills, foundations, grading and other measures to prevent infiltration of contaminants. The power supply for the pump may be temporary until the well is approved and accepted.

* Proven means a certification of the quality of water available and the effect capacity pumping has on the local water table. In accordance with an approved schedule, the pump shall be operated at rated capacity for specific periods. The pumping rates (high-low-mean) and total volume produced in each test period shall be recorded together with run times, head levels and recharge times.

* Tested means samples tested for potability by a State approved laboratory. Certified copies of the laboratory reports must be delivered to the Board of Health. Where a quantity of a chemical substance hazardous to human health is found to be marginal with respect to the State standards, the Board of Health will not approve the well. Where chemicals with significant health hazards and characteristically high resistance to health are found the Board of Health may disapprove the well site until the contaminant is removed and/or controlled; and may further require that the contaminant source be removed.

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09.9.5 Private Water Supply Wells Continued

(4) Private potable water supply wells designed or intended to serve dwellings having more than two (2) bedrooms** or more than four (4) occupants, shall be equipped with a sealed water meter (cumulative volume measure in gallons or liters). meter readings shall be taken in the first half of May and the first half of November***, the volume pumped in each period shall be reported to the Board of Health annually by letter. the letter shall show the property owner's name and address and the Board of Assessor's lot assigned to the property.

** The term two (2) bedrooms is inclusive of any room such as a den, office, study, studio, library, loft, etc. which may be used as a sleeping room and otherwise denotes a dwelling occupancy of not more than four (4) persons.

*** If the use is seasonal, the property owner may arrange a before and after season schedule.

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(5) Where a private potable water well site is in the Coastal District, it shall not serve any business or commercial use.

(6) Where a private potable water well site is in the Coastal District, the pump, together with its attendant machinery, shall not have a capacity rate greater than twenty (20) gallons per minute peak or two hundred (200) gallons per hour continuous over a thirty (30) minute period. In the Designated Barrier Beach, the maximum capacity rates are one-half (1/2) those set forth in the preceding sentence. (NOTE: see 09.3.1)

09.9.6 Groundwater Protection and Pollution Prevention

(1) All on-lot potable water distribution systems sited below the ten (10) foot elevation contour line shall incorporate an anti-siphon device to protect the supply main (public or private) from contamination in the event of flood or negative pressure (such as may be caused by fire pumps).

(2) No new inlet, channel or basin shall be constructed inland of the mean high water line of the sea coast or a saltwater body without the written approval of the Board of Health.

(3) Hazardous Chemical Substances:

a. Definitions:

· Hazardous Chemical Substances means those substances which are hazardous to human health or the environment, being so identified and classified by the federal Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (COE – re: Floodproofing Regulations), and/or the Massachusetts Department of Environmental

Engineering (DEQE). Further the term is inclusive of those situations where effective dilution, degradation, dissolution and dispersal cannot reasonably be expected to occur so as to acquire safe levels and preclude health hazards.

· The term General is inclusive of all hazardous chemical substances, whether or not classified as toxic or no discharge. (Most of the chemicals coming within this description are regulated to some degree in one or more of the phases from manufacture to disposal.)

· Toxic means hazardous chemical substances which are harmful, destructive, or deadly poisonous in the usually available forms and/or in low concentrations. Further, the term includes all substances classified as toxic by the U.S. Public Health Service or the Massachusetts Department of Public Health. (All, or nearly all, of the chemicals coming within this description are regulated to some degree in one or more of the phases from manufacture to disposal.)

· No Discharge means chemical substances which the Federal or State Government has by law, code, regulation or rule so classified. (NOTE: see under the term General above, most chemicals classified...)

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09.9.6 Groundwater Protection and Pollution Prevention Continued

b. General

No hazardous chemical substance shall be discharged onto or into the land or any water body in concentrations or volumes which exceed established limits in any one occurrence or may reasonably be expected to exceed established limits due to frequency of occurrence or a tendency to increase concentration as a result of cumulative occurrences and/or precipitation or chemical re-combining characteristics.

c. "Toxic" and "No Discharge"

No hazardous chemical substance classified as "Toxic" or "No Discharge" shall be discharged onto or into the land or any water body. Possession or use of any hazardous chemical substance classified as "Toxic" or "No Discharge" in any way, manner or extent contrary to law is prohibited. Violations of this provision may result in orders to 'terminate all uses at site', 'removal of all occupants from site' and/or 'cease-desist-removal-decontaminate'. Further, the Board of Health may bring or request civil or criminal charges or may join other agencies in such actions.

d. Transportation and Disposal

The transportation and disposal of hazardous substances is regulated by the State. In an emergency, contact the Board of Health; during non-office hours, reach the Chairman of the Board of Health through the Police Department or Island Communication Center.

e. Reporting Spills

All hazardous substance spills and out-of-control situations (e.g. leaking containers) must be immediately reported to the Board of Health. Depending on the substance and site, other government agencies require notification and in certain cases failure to notify is a violation of State or Federal law.*

f. Cleanup and Disposal

Most hazardous substance spills must be completely recovered, containerized and disposed of in an approved manner and at an authorized site. Do not attempt to disperse or flush away without proper authorization.

* NOTE: In some instances the law requires that anyone observing a spill notify the proper authorities (e.g. oil spills in saltwater bodies – U.S. Coast Guard), except where they have knowledge that notification has been previously entered.

Timely notification is essential to the immediate objective of spill response – "STOP

FLOW AND CONTAIN."

09.9.7 Wastewater Disposal Systems

- (1) Percolation Test Requirements – Rescinded 3/31/95 due to Title V changes
- (2) Separation Distances Chart – Incorporated into 09.9.7(6)
- (3) Leaching Areas Chart – Incorporated into 09.9.7(7)
- (4) Density-Use Intensity – Subsurface Loading Chart – Incorporated into 09.9.7(8)

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09.9.7 Wastewater Disposal Systems Continued

- (5) Additives:

Septic systems shall receive only normal wastewater; no hazardous chemical substances, trash or solid garbage, or acid shall be added to or allowed to enter the system.

4/22/85 amended 1/3/89

- (6) Separation Distances:

Separation between Minimum Separation Distance (in feet)

Septic System and - Designated Barrier Beach Coastal District

Private Well 300 200

Public Well 700 700

Other Septic Systems 300 200

Water Table 5 to 7 5 to 7

Water Body* 200 200

Wetlands 200 100

* Systems in or on slopes, cliffs, banks or ravines may require greater separation

- (7) Leaching Areas:

Designated Barrier Beach

Two (2) times the requirement established by Title V of the State Environmental Code.

Coastal District

One and seven tenths (1.7) times the requirement established by Title V of the State Environmental Code.

- (8) Density – Use Intensity – Subsurface Loading:

Maximum Number

Designated Barrier Beach Coastal District

Element Per 50,000 square feet* Per 40,00 square feet*

Septic Systems 1 1

Bedrooms 2 3

Occupancy (persons) 4 5

* Lot area excluding shores and wetlands

** The Board of Health may require dual or split leaching fields/pits

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09.9.8 Requirements – Prohibitions

(1) Coastal District

- a. New asphalt or bituminous paving shall not be sealed for at least six (6) months. The Board of Health may require a longer interval for evaporation of solvents where the application is thick.
- b. Except for proper storage by an authorized dealer or distributor, the use or storage of defoliants and herbicides require written authorization from the Board of Health.
- c. Possession and storage of hazardous chemical substances must be in full compliance with federal and state laws. Storage in commercial quantities must employ approved containers, be secured against flood/storm effects and tampering; if the substance(s) stored are toxic, the storage area must have a concrete floor with an integral rim of sufficient height to contain the entire volume of the substance(s) stored.
- d. No fertilizers or insecticides (types prepared for outdoor use) shall be stored in quantities or concentrations exceeding the maximum set by law, or such lesser amount recommended by the manufacturer, for an application equivalent to 10,000 square feet of land surface, nor shall the intervals between applications be less than three (3) months.
- e. No fertilizers or insecticides (types prepared for outdoor use) shall be applied to any lot in quantities or concentrations exceeding the maximum set by law, or such lesser amount recommended by the manufacturer, for an application equivalent to 10,000 square feet of land surface, nor shall the intervals between applications be less than three (3) months.

(2) Designated Barrier Beach

a. Prohibited:

- Asphalt or bituminous paving.
- The use, storage or possession of fertilizers, herbicides, defoliants or insecticides (types prepared for outdoor use).
- The storage or possession of any hazardous chemical substance, other than common household substances in volumes or concentrations not to exceed twice that found in the normal retail size container.

b. Required:

The following provisions are required; where existing (as of the effective date of these regulations) dwellings do not comply, they shall be brought into compliance within two (2) years following effective date of these regulations:

- All fuel storage tanks shall comply with Flood/Storm Program requirements with respect to securing, shutoffs and

measures designed to prevent the escape of contents;

- All potable water supply service lines shall be equipped with anti-siphon devices; and
- All septic system shall incorporate back flow checks and be secured against the escape of effluent through covers or the components joining the first tank or pit with the dwelling; and secured against the direct entry of flood or storm water.

09.9.9 Waivers

(1) The procedural requirements for waivers are set forth in the Board of Health "General Regulations

09.0"

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09.9.9 Waivers Continued

(2) In reviewing applications applying to the Coastal District, Board of Health considerations include but are not limited to:

- percolation rates
- soil conditions (site and surround)
- proximity of water table
- proximity of water bodies
- designs and specifications proposed v. available alternatives
- density, intensity of use, and occupancy proposed and that existent in the area
- availability of public water supply
- surface and subsurface gradients
- effluent treatments proposed or available
- disposal field size and available area
- observation or monitoring wells

09.9.11 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- considered as minimum requirements
- liberally construed in favor of the Town of Tisbury
- deemed neither to limit nor repeal any other powers granted under the statutes of the Commonwealth of Massachusetts

09.9.12 Disclaimer

These regulations shall not create liability on the part of the Town of Tisbury, any Board, Commission, Officer or employee thereof for damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

09.9.13 References and Coordination

It is the intent of these regulations, while dealing with the requirements and purviews of the Board of Health, to contribute to a uniform address of Tisbury's coastal concerns. Those with interest in the Coastal District may wish to also refer to Tisbury's "Flood/Storm Program" (Planning Board), "Coastal Wetlands" (Conservation Commission), "Waterways – Coastal and Marine Resource Management" (Planning Board), or discuss "land and water use policies" with the Planning Board. Other regulatory expression may also apply; for example, the State Building Code, Zoning by-laws, Subdivision Control Rules and Regulations, etc. The Building/Zoning Inspector should be contacted for assistance in determining initial procedures and referral/address sequences.

09.9.14 Acquiring Objectives

These regulations are intended to provide minimum control standards for areas of special health, safety and general welfare concerns. The Coastal District has a high potential for irreparable or irreversible damage, whether as direct hazards to human health or indirectly through the environment. It is also recognized that some accommodation for essential housing and/or passive uses is desirable; and, except in extreme cases, a property owner should not be permanently deprived of all utility value – actions on abutting land, even the larger surrounding, must be a part of this consideration.

It is not to be expected that all pollution will be avoided, but is recognized that all pollution must be prevented where possible and otherwise controlled – for once control is lost, it may be impossible to regain. Regulations alone will not ensure that health and environmental hazards will be avoided, but cooperation by everyone could – how well, or how poorly, will be felt by future generations. (E)

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09.9.15 Erosion Control Measures

Subject to existing regulations as stated by the Board of Health Regulations, and Title V, 310 CMR 15.12, disposal works construction permit. The Board of Health shall require, as part of disposal works permit, inclusion of erosion control measure to be used during construction and after completion of construction. This requirement may be waived at the discretion of the Board of Health, but not in the 100' buffer to wetlands area under the jurisdiction of the Conservation Commission.

3/19/91

09.9.16 Hydroseeding

Commercial enterprises for the purpose of hydroseeding/fertilizing, lawn care and insecticide use shall consult with the Soil Conservation Service for a soil analysis, and appropriate fertilizer application rates (if applicable), and shall show certification of consultation to the Board of Health from the Soil Conservation Service before a license to operate in the Town of Tisbury will be issued.

Work performed without a valid Board of Health permit will result in a \$50 fine.

3/19/91

09.9.17 Waterfowl

Purpose: The protection of water quality for shellfishing, public swimming and recreational uses from pollution caused by unnatural harborage of waterfowl, due to feeding and baiting by the public.

Definition: "feeding" and "Baiting" mean the placing, or scattering, directly or indirectly, or any grain, bread, salt or other feed or nutritive substances, in any manner or form so as to constitute for waterfowl a lure, attraction or enticement.

No private citizen shall feed or bait any waterfowl including, but not restricted to, ducks, geese, swans and seagulls, on or near a waterway, shellfish bed or beach area which is considered a sensitive area within the Town of Tisbury.

Nothing in this regulation shall limit the feeding of domesticated waterfowl, by a farmer on property owned or leased by the farmer or feeding of any waterfowl or other birds by propagators when such birds are confined in a manner as required by Section twenty-three and any rules and regulations issued under authority thereof. Nothing in this regulation shall limit the feeding of woodland birds including, but not restricted to, robins, blue jays and sparrows, by a homeowner on their land which not located on or near a waterway, shellfish bed or swimming area. Homeowners living near sensitive areas can feed woodland birds provided they take the responsibility that said feed is used by woodland birds and is not available to waterfowl. It is recommended that homeowners use feeders which would not allow waterfowl to feed.

This regulation is to take effect on the date of publication of this notice. Any person who violates this regulation may be subject to a fine of \$100.00. This regulation is enforceable by agents of the Board of Health, Natural Resources and Shellfish Officers.

11/7/89