TOWN OF TISBURY'S
ZONING BY-LAW
06132020

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TOWN OF TISBURY
ZONING BY-LAWS

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C1.00 INTRODUCTION

C1.01 In Massachusetts, enabling legislation allowing communities to adopt zoning provisions dates from 1920. Currently, the enabling legislation is in Chapter 40A of the General Laws. The original legislation has been amended many times; Chapter 808 of the acts of 1975 effected a complete revision of Chapter 40A.

C1.02 History: (some major milestones)

1926 Planning Board established.
1926 First Master Planning Project.
1959 First Zoning Bylaw.
1972 Town-wide comprehensive zoning adopted.
1972 Subdivision control Law adopted.
1975 First comprehensive Master Plan completed.
1976 Zoning Bylaw completely revised and reformatted.
1983 Comprehensive waterways and harbor studies initiated.
1984 Water supply protection program - ongoing.

C1.03 Zoning has, since Chapter 808 of the Acts of 1975, acquired a new meaning; it is unfortunate that it was not given a new name. Zoning today means much more than simply establishing zones (or districts). Zoning, together with the Home Rule Amendment (State Constitution), the Subdivision Control Law, and the Municipal Planning (Master Planning) Statutes give the community a means for determining what it wants for residential and commercial provisions, how it will address its environmental and infrastructure problems, and how it will provide for future livability and amenities. The time worn phrase “to provide for the public health, safety and general welfare” still has meaning. So too does the rule of “consistent with the intent and purposes” - for we will never have a rule for every circumstance. In addition to the specifics of a law (Bylaw, rule or regulation), there must be consideration given to the overall “intent and purposes” message. In all of this, recognition must be given to property rights and to the question of “the greater public interest”. Making it work taking us where we want to go, and getting the job done in the most equitable way is something we can all contribute to; there is no substitute for public participation. The Planning Board if grateful to all who have helped us in the past; we extend an invitation to all of the citizens of Tisbury to join with us in addressing the problems of today and of tomorrow.

C1.04 As Bylaws, Rules and Regulations, and other public documents, become more lengthy it becomes more and more difficult to locate information. With this newly formatted edition, we hope to reverse this trend and make information more accessible. Your comments and suggestions are welcome.

D1.00 FORMAT - IDENTIFICATION - GENERAL INFORMATION

D1.01 The Zoning Bylaw is divided into numbered sections, for ease of reference and the grouping of subjects.

D1.02 Section Numbers:

Section numbers are comprised of two pairs of digits (numerical characters); the first and second pair are separated by a decimal point. Leading zeros are used whenever the numeric value would otherwise be a single digit. Section numbers appear at the left margin of the text and run consecutively throughout the text. Where additional sub-identification is required, a third pair of digits is used (indented to the left text margin).

D1.03 The first pair of digits in the section number are termed “part” numbers and denote major divisions of the Bylaw; their significance is similar to chapter numbers. The second pair of digits (and the third, if used) provide for additional divisions of subject matter.

D1.04 Notation Form - Section Numbers:

In standard notation form, the section number is proceeded by the letter “s” and a slash mark (/). For example, “s/01.02” is read “section one oh two” it is also “part one, sub-part two”. The intertwined “s” section symbol is an alternative to the “s/” form.

D1.05 Header:

The first line at the top of each page is the “Header Line”. The header line identifies the document (e.g. “ZBL” - Zoning Bylaw), the “Part” (e.g. “D1” on this page), the edition (that is, the edition applicable to the part), and the page number of the part (note: page numbering is within each “part” and not continuous throughout the zoning document).

D1.06 Edition:

The first six digits in the edition number comprise a date designator written in the form year/month/day. The three characters (alpha or numeric) following the decimal point are Planning Board codes for source data or cross references.

D1.07 Unofficial Text:

The format for unofficial text pages is the same as for the official text pages, except:

- the first character position of the section number (also “part”) is an upper case letter; ‘A’ through ‘H’ if preceding the official text and ‘X’ through ‘Z’ if following the official text.

FORMAT - IDENTIFICATION - GENERAL INFORMATION, cont.

D1.07 Unofficial Text, continued:

Unofficial text pages provide title pages, indexes, cross references, source data, etc.; of itself, the unofficial text page has no regulatory status.

D1.08 Unofficial Notation:

Unofficial notation on official text pages appears in the form of 'note' or 'notes' containing statements enclosed within parenthesis (). Such unofficial notation provides cross-reference information and guides to correlative date. Application and interpretative requirements should be taken only from the official text.

D1.09 Permit - Special Permit - Permit:

Where this Zoning Bylaw refers to Permit (upper case 'P') reference is to a Special Permit from the Zoning Board of Appeals. Reference to permit or permit(s) (lower case 'p') indicates permits in general, including all general forms of permit authorizations (e.g. Variances, Building Permits, Special Permits, etc.), licenses and approvals.

D1.10 Special Permits - Zoning Board of Appeals v. Planning Board:

The Zoning Board of Appeals and the Planning Board are both Special Permit granting authorities. The Special Permit applications that each processes are separately enumerated in the Zoning Bylaw. In general, the distinction is based upon singular v. multiple aspects, upon the necessity for in-house references (e.g. data on topography, general mapping, planning studies, etc.), whether or not the likely impacts are single lot v. wide area, and whether or not a major town problem or master planning policy is involved.

D1.11 Other References:

Many use, activity, construction and plan proposals will require address to other statutes, codes, bylaws and rules and regulations; some of which are:

- Chapter 40A, MGL - The Zoning Act
- Chapter 41, sections 81A-81J, MGL Municipal Planning
- Chapter 130, section 105, MGL The Wetlands Restrictive Act
- Chapter 131, section 140, MGL The Wetlands Protective Act
- General Bylaws - Town of Tisbury
- Tisbury Flood/Storm Rules and Regulations
- Tisbury Subdivision Rules and Regulations
- Tisbury Master Plan - Statements and Policies
- State Environmental and Health Codes
- State Building Code
- Tisbury - Department Rules and Regulations

1.00 PURPOSE

01.01 The purpose of this Zoning Bylaw is to promote the health, safety, convenience and welfare of the Town of Tisbury and to provide the benefits and protection authorized by Chapter 40A MGL, as revised by Chapter 808 of the Acts of 1975 and as further amended, and the Town of Tisbury hereby adopts all sections incorporated therein. The objectives of the Bylaw are as follows:

- to lessen congestion in the streets;

- to conserve health;

- to secure safety from fire, flood, panic and other dangers

- to provide adequate light and air;

- to prevent overcrowding of land, to avoid undue concentration of population;

- to encourage housing for persons of all income levels;

- to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements;

- to conserve the value of land and buildings, including the conservation of natural resources, and the prevention of blight and pollution of the environment;

- to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan developed by the citizens and the Planning Board of Tisbury;

- to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

02.00 DEFINITIONS

02.01 Accessory Apartment:
An accessory apartment is a separate dwelling unit complete with its own sleeping, cooking, and sanitary facilities, which is contained within, **or** added to a single family dwelling structure. (Rev.: April 10, 2018 – Art. 9)

02.02 Accessory Use:
A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use shall be restricted to the same lot as the principal use.

If more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory. Accessory use shall not be construed to include a building or structure used in whole or in part for human habitation. An accessory building's cubic footage is not to exceed the cubic footage of the principal structure.

02.03 Accessory use to a water dependent use: is customarily associated with and necessary to accommodate a principal water dependent use; is integral in function to the construction or operation of the water dependent use or provides related goods & services primarily to persons engaged in such use; and commensurate in scale with the operation of the water dependent use.

If more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory. Accessory use shall not be construed to include a building or structure used in whole or in part for human habitation. An accessory building's cubic footage is not to exceed the cubic footage of the principal structure.

02.04 Affirmative Fair Housing Marketing Plan and Resident Selection Guidelines: Federal and State Housing statutes require municipalities to prevent and address disparities in access to community resources and assets in the promotion of healthy, diverse, and sustainable communities. All municipal housing efforts shall follow Fair Housing prescripts and guidelines. (Adopted: April 25, 2017 – Art. 11)

02.05 Affordable Housing: Affordable Housing is defined as permanently deed-restricted year-round rental or ownership housing for those earning up to 80% of AMI as referenced in HUD and the Massachusetts Department of Housing & Community Development (DHCD) guidelines. (Adopted: April 25, 2017 – Art. 11)

02.00 DEFINITIONS

02.06 Apartment:
A dwelling unit within a multi-unit dwelling structure with at least one (1) private entrance, either from the outside or from a common hall inside, and which is usually leased for periods of six (6) months or more.

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

02.08 Area Median Income (AMI): County Area Median Income is determined annually by the Federal Department of Housing and Urban Development (HUD) and used to calculate limits for eligibility in a range of housing programs.
(Adopted: April 25, 2017 – Art. 11)

02.09 As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws.

Projects cannot be prohibited, but can be reasonably regulated by local building inspector, or if there is none in a town, the board of selectmen, or person or board designated by local ordinance or bylaw

02.10 Awning:
Any flexible or fixed**,** overhanging, roof-like device extending from a building used for shading or sheltering entrances or sidewalks.

02.11 Bakery/Deli:
Food Service Establishment engaged in selling baked or deli goods prepared and portioned on site for the general public for personal or household consumption or for resale; and rendering services incidental to the sale of such goods.

02.12 Banner:
Any piece of fabric or similar material, whether flexible or rigid mounted on a staff, a pole, or affixed to a building by string, rope or wire.

02.13 Beacon:
Any sign with rotating or moving beams of light or any device with rotating or moving beams of light used as a sign or to attract attention**.**

02.00 DEFINITIONS

02.14 Boat Service:
Retail, wholesale or manufacturing use of premises for the design, manufacture, repair, sale, docking hauling, or storage of boats; or for the design, manufacture, repair or storing of marine equipment & appurtenances or sails; marine-related offices; use for storage of fishing gear, marine taxi and related services; sale at dockside of marine fuel and related marine products.

02.15 Commercial:
Operated for profit, or when used by other than the owner, the owner's family or private non-paying guests, when sited on the same premises where a business is conducted; or when used in any manner, directly or indirectly, for the promotion or advertising of a business or services

02.16 Community Housing: Community Housing is permanently deed-restricted year-round rental or ownership housing for those earning more than 80% but less than 150% of AMI as referenced in Chapter 445 of the Acts of 2004, the State Legislation for Martha's Vineyard Affordable Housing Covenants. (Adopted: April 25, 2017 – Art. 11)

02.17 Directory:
Any sign made up of other signs serving the sole function of identifying different businesses on one property with multiple-unit occupancies.

02.18 Display Signs:
Any exterior sign or other collection of merchandise, works of art or craft, models, statuary, which serves at least in part to draw attention to or identify a business or to signify that it is open for business.

02.19 Domicile:
The place where a person has his/her true, fixed and permanent home which is his/her principal residence and to which he/she, when absent, regularly returns. It is also the dwelling place he/she inhabits more frequently and for longer periods than any other (excluding business or government service temporary duty assignments) during the course of a calendar year. The meaning of domicile is distinct from declared residence, although the two terms could refer to the same place.

02.20 Dwelling Structure:
A building designed or arranged to accommodate one (1) or more dwelling units.

02.00 DEFINITIONS

02.20 Dwelling Structure, continued:

Any mobile home, trailer, car, bus, van, wagon, truck or camper, regardless of design, arrangement, modification, equipage, method of securing or siting, is not a dwelling structure; and, dwelling structure use is prohibited, except as provided for under Mobile Home Parks.

02.21 Dwelling Unit:
A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A dwelling unit shall also mean a condominium.

Each guest unit in a hotel or motel, each four (4) beds in a hospital nursing home or Assisted Living Facility, accommodations for four (4) persons in a dormitory, and each four (4) rooms in a rooming or boarding house shall be considered equivalent to a dwelling unit in determining net land area and parking requirements.

02.22 Exception:
A "Permit" or "Special Permit".02.00

02.23 Family:
Any number of individuals related by blood or marriage, or not more than five (5) persons not so related, living and cooking together in a single housekeeping unit.

02.24 Federal Emergency Management Agency (FEMA):
Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program of communities as well as regulatory standards for development in the flood hazard areas.

02.25 Flood Insurance Rate Map (FIRM):
An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

02.26 Flood Insurance Study
An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

02.00 DEFINITIONS

02.27 Floor Area Ratio:
The ratio of net floor area of all buildings to the lot area. The net floor area is the sum, in square feet, of the horizontal area on the first and second floors of a building measured from the exterior face of exterior walls.

02.28 Food Service Establishment:
Any fixed or mobile place, structure or vehicle whether permanent, transient, or temporary, including any restaurant, coffee shop, cafeteria, luncheonette, short order cafe, grille, tearoom, sandwich shop, soda fountain, industrial feeding establishment; private, public or non-profit organization or institution routinely serving the public, catering kitchen, commissary, or any other similar eating and drinking establishment or place in which food or drink is prepared for sale or for service on the premises or elsewhere, or where food is served or provided for the public with or without charge, but excluding retail stores where food preparation is limited to making hot coffee and providing hot water for customer use.

02.29 Frontage:
Line of property on a street or public way. Corner lots shall be considered to have two (2) frontages.

02.30 Ground Mounted Signs:
A sign attached to the ground and supported by uprights placed on or in the ground. Any sign structurally separate from the building, being supported on itself or on a standard or legs.

02.31 Groundwater Protection District:
The zoning district defined to overlay other zoning districts in the Town of Tisbury. The groundwater protection district may include specifically designated recharge areas.

02.32 Guest House:
A subordinate dwelling structure containing a single dwelling unit and which is owned by the same individual or family that occupies the principal dwelling structure on the lot.

02.33 Height of Structures:
The height of a structure is the vertical distance from the mean natural grade to the highest point of the roof ridge of the structure, including the chimney.

In the Waterfront/Commercial District, the height shall be measured vertically from the finished first floor level (100 Year Still Water Floor Level) as designated on the

02.00 DEFINITIONS

02.34 Height of Structures, continued
Flood Insurance Rate Map (FIRM) of the structure to the highest point of the roof ridge of the structure.

02.35 Home Occupation:
A business use within a residential dwelling conducted by the resident.

02.36 Hotel:
A commercial dwelling structure of more than four (4) rooms, rented for periods as short as one (1) day, having available to its guests a wide variety of services, such as eating places, laundry and room service, located in the same building or adjacent thereto. Each hotel room has a private inside entrance and sleeping and sanitary facilities.

02.37 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.

02.38 Large-Scale Ground-Mounted Solar Photovoltaic Installation**:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.

02.39 Lot Area:
The contiguous horizontal area within the exterior lines of a lot, excluding any land which is under any water body or bog, dry bog, swamp, wet meadows or marsh (as defined in MGL c.131, s.40)

02.40 Lot Coverage:
A ratio of the lot area compared to the footprint of the structure.

02.41 Map:
A representation of the earth's surface, or of some part of it, showing the relative position of the parts represented, usually on a flat surface.

Where a plan is required, or referred to, in this Bylaw, a map alone is not sufficient in meeting the requirement; however, in appropriate circumstances, a map may be considered as part of a plan. (see definition of plan)

02.00 DEFINITIONS

02.42 Marijuana Cultivation Area
The land area and space within a building (excluding the areas used for processing or dispensing) where plants are cultivated. (Adopted on April 29, 2014; Rev. on April 10, 2018 – Article 9)

02.43 Marina:
Means a berthing area with docking facilities under common ownership or control and with berths for ten (10) or more vessels, including commercial marinas, boat basins, and yacht clubs. A marina may be an independent facility or may be associated with a boatyard.

02.44 Marine Transport Services:
Including ferries, public landings, ramps, docks, and charter services.

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

02.46 Mixed Use:
A structure which contains non-residential uses on the first floor and may contain one (1) dwelling unit on any other floor per parcel.

02.47 Motel:
A commercial dwelling structure or more than four (4) rooms, rented for periods as short as one (1) day, which, except for "self-service" provisions, usually does not include room service or eating places within the same building. Each motel room has a private inside or outside entrance, sleeping and sanitary facilities. At least one (1) vehicular parking space is typically provided for each motel room.

02.48 Multi-family Dwelling:
A dwelling containing two (2) or more dwelling units in the same structure; each unit with at least two (2) entrances to the outside, yard space of its own, separate utilities and services, and separate parking and/or garaging, arrangements.

02.49 Multi-unit Dwelling:
The number of dwelling units does not exceed two (2), the number of bedrooms per dwelling unit does not exceed two (2), and the number of dwelling structures does not exceed two (2) on any lot, including contiguous lots under the same ownership.

02.00 DEFINITIONS

02.50 Net Land Area:
From the gross land area the following areas are deducted:
- the entire area of any and all established rights of way;
- the areas which are in excess of, or in excess of a combination of the following:
- for multi-unit developments of nine (9) or more dwelling units:
- four hundred (400) square feet per dwelling unit for vehicular parking;
- a driveway, or driveways which have combined areas in excess of the equivalent of a driveway twenty (20) feet in width and of a length not to exceed the shortest distance from the main entrance to the multi-unit dwelling located farthest from the public way main entrance herein above set forth;
- for multi-unit dwelling developments of eight (8) or less units:
- three hundred (300) square feet per dwelling unit for vehicular parking;
- a driveway, or driveways, which have combined areas in excess of the equivalent of a driveway twelve (12) feet in width and of a length not to exceed the shortest distance from the main entrance to the multi-unit dwelling located farthest from the public way main entrance herein above set forth.

The Board of Appeals or the Planning Board may restrict areas allowed for vehicular parking or passage to those submitted by plan; or may otherwise in specific cases and upon a finding of sufficient cause, identify and exclude other areas in determining net land area.

02.51 Non-Appurtenant Sign:
Same as off-premise sign.

02.52 Non-commercial:
Not operated for profit or in association with a business, trade or service.

02.53 Non-water Dependent Uses:
Restaurants and other food/beverage(non alcohol) service establishments, retail shops & stores, parking facilities, office facilities, housing units & other residential facilities; hotels, motels, and other facilities for transient lodging; and as further defined in 310 CMR 9.00.

02.54 Off-Premise Sign:
Any sign that directs attention to an occupation, business, commodity, service, or entertainment on other premises.

02.55 On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

02.00 DEFINITIONS

02.56 Outdoor Cafe:
An accessory use to a restaurant or Food Service Establishment; is an outdoor area adjacent to or directly in front of such use. The encroachment area of an outdoor café shall be separated from a public way by railings, fencing or landscaping or a combination thereof.

02.57 Parcel:
A part or portion of land.

02.58 Pennant:
Any small, triangular flag**.**

02.59 Permit:
An exception, authorized under the Special Permit provisions of Chapter 40A, MGL (re: Chapter 808 of the Acts of 1975), granted by the Zoning Board of Appeals for certain uses as provided in the Zoning Bylaw and which may be subject to conditions and restrictions, consistent with this Bylaw, set forth by the Zoning Board of Appeals.

02.60 Permit Granting Authority:
The Zoning Board of Appeals as provided for in Chapter 40A, MGL (re: Chapter 808 of the Acts of 1975). The Zoning Board of Appeals hereinafter shall be referred to as Board of Appeals.

02.61 Plan:
A delineation; a design; a draft; a draft or form or representation; the representation of anything drawn on a plane, as a map or chart; a scheme; also a method of action, procedure, or arrangement.

As used in this By-law, plan shall mean a plan executed to appropriate, and/or required, standards of quality, completeness and arrangement in keeping with the context of usage, the Rules and Regulations of any Town Board requiring the submittal of a plan and the standards of any official receiver or recorder of plans.

02.62 Plot:
A map, or representation on paper, of a tract of land subdivided into lots, with streets, ways, etc., usually drawn to scale.

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

02.00 DEFINITIONS

02.64 Pre-application Conference:
A review meeting of a proposed development held between applicants and the Planning Board and or Staff, as provided in the Bylaw, before formal submission of an application for a Permit or Special Permit, under Section 06.00.00 of these Bylaws. This provides applicants the opportunity to present their proposals informally and to receive comments and directions from the Town.

02.65 Projecting Signs:
Any sign affixed to a wall by means of a bracket in such a way that it extends in the perpendicular direction away from the wall.

02.66 Rated Nameplate Capacity**:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

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

02.68 Recreational Marijuana Establishments (RME)
Shall mean a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, all as defined in the Massachusetts General Laws. Chapter 94G, Section 1, but not to include a Registered Marijuana Dispensary (RMD).
(Adopted: April 10, 2018 – Article 9)

02.69 Registered Marijuana Dispensary
A non-profit entity registered under 105 CMR 725.000 et seq. that acquires, possesses, processes (including development of related products such as MIPs (marijuana-infused food products), tinctures, aerosols, oils or ointments), cultivates, manufactures, delivers, transfers, transports, supplies, sells, distributes, dispenses or administers marijuana, products containing marijuana and/or related supplies and educational materials to registered qualifying patients or their registered primary caregivers
(Adopted: April 29,2014, Art. 11)

02.70 Restaurant:
A Food Service Establishment that serves food and beverages primarily to persons seated within the building.

02.00 DEFINITIONS

02.71 Retail Trade:
Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Trade shall not include automotive rental or services, drive-up facilities or any type of restaurant.

02.72 Roof-Mounted Signs:
Any sign which is attached to the roof of a structure or projects further than the height of the roof line of which it is attached.

02.73 Room, Rental:
A space, within a dwelling structure, enclosed on all sides and which may include a sanitary (but not cooking) facility and which is rented for the purpose of habitation.

02.74 Rooming House and Boarding House:
An established private residence with rental rooms; and which, in the case of a Boarding House, provides meals for the occupants of such rooms.

02.75 Self-Supporting Sign:
Any free-standing sign.

02.76 Severable Use:
A use which is readily terminated, removed or changed to a different category or use without major alteration of the principal structure, and without appreciable land filling or excavation.

02.77 Sign:
Any device or means used to alert, advertise, identify, or communicate information, by word, symbol, or design.

02.78 Sign Size:
The area of the face of the sign, the side that is displayed. In the case of signs displaying two faces or sides, such as hanging, projecting signs, the size of the sign is the same as above, that is, the area of one of the sides or faces, unless the two faces or sides on display are separated by more than six (6) inches, in which case the two faces or sides shall be considered two (2) signs, and shall be counted as two (2) signs in the aggregate total sign area and number of allowed on the premises.

02.79 Site Plan Review Board: The Site Plan Review Board shall act as an advisory body to the Zoning Board of Appeals, the Planning Board, the Building Inspector and the Zoning Enforcement Officer in reviewing all applications for Permits excluding

02.00 DEFINITIONS

02.79 Site Plan Review Board, continued:

applications for demolitions, and repairs, provided that they do not involve changes to the structure, design, texture or material; and/or Special Permits, excluding applications for swimming pools within the Coastal District, the Tisbury Island Road District, and the Waterfront Commercial District as provided for in Sections 06.00, 09.00 and 10.00 and, in future, as provided for in any amendments to the Zoning By-Law**.** (Adopted: April 29, 2014 – Art. 12 and amended on April 25, 2017 – Art.11)

02.80 Snack Bar:
Any eating Food Service Establishment where commodities are consumed outside the principal building.

02.81 Solar Photovoltaic Array**:** An arrangement of solar photovoltaic panels.

02.82 Special Flood Hazard Area
An area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

02.83 Special Permit:
An exception, authorized under the Special Permit provisions of Chapter 40A, MGL (re: Chapter 808 of the Acts of 1975), granted by the Planning Board under the authority of this Bylaw.

02.84 Special Permit Granting Authority:
The Planning Board as provided for in Chapter 40A (re: Chapter 808 of the Acts of 1975).

02.85 Street:
An established way in public use that provides adequate public safety access**.**

02.86 Structure:
A combination of materials assembled at a fixed location to give support, shelter or utility. A structure include any building. A fence or wall over six (6) feet high shall be considered a structure. An open terrace not more than three (3) feet above the mean natural grade level shall not be considered a structure.

02.87 Subdivision:
The division of a tract of land into two (2) or more lots and which shall include re-subdivision. The subdivision of land where each and every lot has frontage on an

02.00 DEFINITIONS

02.87 Subdivision, continued:
established way in public use shall not be considered a "subdivision" (as defined in Chapter 41, MGL).

02.88 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, water or air 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.

02.89 Use:
The purpose for which land or a structure is to be occupied, maintained, arranged, designed or intended.

02.90 Use Categories:
Conforming- a use fully complying with the Zoning Bylaw. Conforming by Permit, Special Permit or Variance - a use where all non-conforming attributes are authorized by Permit, Special Permit or Variance.

Pre-existing, Non-conforming - a use allowed prior to the current Zoning Bylaw and existing, or established, prior to a prohibiting or regulating Bylaw.
Non-conforming - a use not allowed by the Zoning Bylaw.

02.91 Variance:
An authorization issued by the Board of Appeals under
Chapter 40A, MGL (re: Chapter 808 of the Acts of 1975), which permits a specified waiver of the literal enforcement of a Zoning Bylaw provision or provisions. Variances are applicable only to land conditions, ways and the siting of permanent structures. Variances shall not be issued for uses or activities nor change any Zoning Bylaw measurement or requirement by more than 25%.

02.92 Wall-Facade Mounted Sign:
A sign securely affixed to a wall with its face parallel to the wall to which it is attached; not projecting beyond the building face fronting on a street or parking lot.

02.00 DEFINITIONS

02.93 Warehouse:
A building where goods or wares are stored, as before distribution to retailers, or are kept in reserve.

02.94 Water Dependent:
Use requires direct access to or location in tidal or inland waters, and therefore cannot be located away from said waters, and as further defined in 310 CMR 9.00.

02.95 Well Site Reference Line:
For the purpose of the R3A District, a 'well site reference line' is a straight line bearing 310 degrees true (130 degrees reciprocal) which goes through the center of a designated public water supply well site and extends, in both directions, to the boundaries of the district. The line is a selected representation of a typical perpendicular to the average direction of ground water flow in the principal R3A aquifer area.

02.96 Wireless Communication Facility:
It shall mean any tower, mast, antenna or any transmitter or any portion thereof; fixed to any land or structure; freestanding or mobile, together with any guy wires and/or accessory structures used in the provision of wireless communication services.

(Amend Section 02.00: April 14, 1998 - Acting on Article 15; on April 10, 2001 – Acting on Articles 12 & 13; April 5, 2011 – Acting on Article 13;April 29, 2014 – Acting on Articles 12 & 14);on April 12, 2016 – Acting on Article 18; on April 25, 2017 – Acting on Article 11; and on April 10, 2018- Acting on Article 9)

03.00 ESTABLISHMENT OF DISTRICTS

03.01 Types of Districts:

For the purposes of this Bylaw, the Town of Tisbury is divided into the following types of use districts:

Residential District 10 (Map Symbol R10)

Residential District 20 (Map Symbol R20)

Residential District 25 (Map Symbol R25)

Residential District 50 (Map Symbol R50)

Residential District 3A (Map Symbol R3A)

Business District 1 (Map Symbol B1)

Business District 2 (Map Symbol B2)

Waterfront/Commercial (Map Symbol W/C)
District

03.02 Location of Districts:

The Districts established in the preceding section 03.01 are located and bounded as shown on the map entitled "Zoning Map, Town of Tisbury, Dukes County, Massachusetts". Said map or amendments thereto, in the manner required by the General Laws of the Commonwealth, is part of this Zoning Bylaw.

(Amend Section 03.01: April 30, 1997 - Acting on Article 12)

04.00 RESIDENTIAL DISTRICTS

04.01 Except as provided in Section 07.00 hereof, no building or structure within Residential Districts shall be constructed and no building, structure or land or part thereof, shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth. All land within Residential Districts may be used for any of the following uses, under the following regulations, provided that all uses not specifically permitted shall be considered to be prohibited.

04.02 Uses Permitted:

.01 One (1) detached single family dwelling.

.02 Religious or educational use.

.03 Recreational or community use not for profit.

.04 Use of a room or rooms in a dwelling for customary home occupations and recognized professions, during normal business hours only. Parking shall be provided as required in Section 07.00.

.05 Accessory uses normally incidental to a permitted use, including one (1) only garage, but otherwise not including additional structures unless specifically stated in this Bylaw.

.06 Only such removal of soil, sand, gravel or rock as is necessary for the erection, servicing or protection of a permitted use.

.07 Renting of rooms to not more than three (3) persons, cumulative totals of all renting persons at all sites (properties) where there is a common property ownership interest. license to rent rooms to more than three persons.

Note: In addition to the Section 04.03 requirement for a Special Permit, Chapter 140, Section 22, MGL, requires a

.08 Use of premises or building thereon in connection with one's trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business requiring substantially continuous employment of more than one (1) person on the premises be carried on. No outside storage of material's connected with said business shall be permitted in Residential Districts.

04.00 RESIDENTIAL DISTRICTS

04.02 USES PERMITED, continued

.09 One (1) only unregistered car or truck may be located ungaraged on a lot or set of contiguous lots in common ownership. Under no circumstances shall an unregistered car or truck be stored in the front yard.

.10 A non-permanent pool less than two (2) feet deep and with surface area not in excess of two hundred and fifty (250) square feet.

.11 A single, unlighted, non-commercial tennis court, provided that:
- the tennis court shall be enclosed by a fence at least ten (10) feet high, but not higher than twelve (12) feet;
- any portion of the enclosed fence above six (6) feet shall not be constructed so as to impede the flow of air or obstruct the transmission of light;
- the minimum setback requirements specified in Schedule A under Accessory Structure are met.

.12 Horticulture, floriculture, agriculture and roadside stands as provided in the following regulations:

In all Residential Districts:

-Horticulture and floriculture, which includes the growing of flowers, fruits, vegetables, trees and shrubs.

In all Residential Districts R50 and R3A:

-Agriculture, which includes the raising, and/or keeping, of common farm animals, provided that:
- such activity conforms to the rules, regulations and determinations of the Board of Health;- the activity is wholly contained on land of not less than five (5) acres.

-Roadside stand for the display and retail sale of natural produce, whether or not cultivated, and/or agricultural products, when the predominant amount of such produce or product was raised or harvested on the same property provided that:
- the roadside stand, if it is not a building of conventional construction and exterior appearance, shall be screened from view from public ways, or removed, together with visible accessories, to a screened location whenever it is not in continuous weekly use;
- the roadside stand shall conform to the setback and frontage requirements of

04.00 RESIDENTIAL DISTRICTS

04.02 USES PERMITED continued

R50 as shown in Schedule A of this Bylaw;
- off-street parking shall be provided as required in Section 07.00 of this Bylaw.

.13 Any municipal use under direct town control and on town owned property, where the use has been established prior to 1 January 1982; or thereafter authorized by town meeting vote.

Such uses include the related construction or expansion of structures and facilities where areas, setbacks, heights and accesses conform to the Zoning District requirements for the district in which the site is located.

04.03 Uses Requiring Permit from the Board of Appeals

.01 Government or Public Utility structure.

.03 Private club building or golf course.

.04 The renting of rooms to more persons than permitted in section 04.02.
Note: In addition to a Special Permit, Chapter 140, Section 22, MGL, also requires a license from the Board of Selectmen. Notwithstanding any other requirement from the Zoning Board of Appeals, the house, property or premises shall be the owner's legal residence, owner occupied and owner operated.

Parking shall be provided as required in Section 07.07.04(A).

(Amend Section 04.03.04: April 30, 1997 - Acting on Article 13; Delete Section 04.03.02 (Commercial radio or television transmitting stations in Residential Districts): April 13, 1999 – Acting on Article 13; Amend Section 04.03.03: April 25, 2000 – Acting on Article 20)

.05 Kennels, raising of fowl and livestock, and stabling of horses.

.06 Gravel, loam, sand and stone removal. The Board of Appeals shall have the right to regulate the depth and extent of the removal and to require the screening of the property by any method such as a fence or planting if the operation is to continue for more than a year. The Board of Appeals shall have the right to require the excavations to be restored to a sightly condition after the use has been abandoned and require a bond to insure such restoration.

04.00 RESIDENTIAL DISTRICTS

04.03 USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.07 For Residential Districts - R10, R20, and R25:

Roadside stand for the display and retail sale of produce, and/or horticultural products, whether or not cultivated; provided that the predominant amount of such produce, or product, was raised or harvested on the same property.

The Board of Appeals shall establish appropriate restrictions for each specific Permit. These restrictions shall include the requirement that when not used for display purposes, the roadside stand shall be removed from public view.

.08 One (1) detached guest house, provided that:

PURPOSE

a. provide homeowners with additional residential rental income to help them retain ownership of their homes
b. provide an opportunity for family members who choose to live in a close proximity, but separate from other family members, to remain within that family environment
c. provide for the health and security concerns of elder or disabled homeowners who wish to remain in their homes
d. protect residential stability, property values, and the single family character of the neighborhoods
e. no businesses shall be allowed in the guest house

REQUIREMENTS

a. the lot area exceeds, by 25% or more, that required by Schedule A for a single-family dwelling
b. the guest house is no larger than one-half (1/2) that of the principal structure on the same lot as determined by square footage with a maximum of 600 sq. ft. of living space for the R-10 Zone; a maximum of 800 sq. ft. for the R-20 Zone; a maximum of 800 sq. ft. of living space for the R-25 Zone; and a maximum of 800 sq. ft. of living space in the R-50 Zone. Maximum height in all zones will not be greater than twenty-four (24) ft. Any existing lot that contains an existing inhabited building that is the same size or smaller than the square footage herein previously prescribed, can be considered a change of use from a principle structure to a guest house, so that you could build a larger principle structure

04.00 RESIDENTIAL DISTRICTS

04.03. USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.08 One (1) detached guest house, continued

c. the guest house is so located that front yard setback requirements, side yard setback requirements, and rear yard setback requirements for a principal structure are met by it

d. that the guest house is no closer to any principal structure in the R-10 District than ten (10) feet and all other Districts twenty (20) feet

e. the guest house contains a single dwelling unit and either the guest house or the principal residence shall be occupied by the property owner or the property owner's immediate family

f. the lot on which the guest house is situated is not in either the R3A or the Coastal District

g. no more than one accessory unit shall exist on a lot. If there is an accessory unit or more than one residential unit already on the lot, no additional dwelling unit is allowed.

h. a minimum of one (1)parking space, not less than ten feet by twenty feet, shall be provided off-street for the occupants of the guest house. The parking spaces shall be located so as to minimize the visual impact from the street or abutting properties by a minimum landscaped area setback of ten (10) feet

i. an owner of a single family residence and associated guest house violating this bylaw shall be liable for a fine of not more than $300.00. Each day a violation continues constitutes a separate offense

.09 <u>Two (2) unlighted, non-commercial tennis courts</u> subject to the provisions of Section 04.02. The Board of Appeals shall impose conditions and restrictions in addition to those herein required.

.10 <u>One (1) swimming pool</u>, provided that:

-the plans are submitted with the seal and signature of a qualified registered professional engineer;

-the minimum setback requirements specified in Schedule A under Accessory Structures are met.

The Board of Appeals may impose conditions and restrictions in addition to those required above.

.11 <u>Mobile Home Parks in R10</u>, as permitted under Chapter 140, Sections 32-32L, MGL, may be maintained provided they also conform to the following minimum standards:

04.00 RESIDENTIAL DISTRICTS

.04.03 USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.11 Mobile Home Parks in R10, continued

-have a minimum area of ten (10) acres;
-provide a minimum of three thousand (3000) square feet for each lot upon which each mobile home is placed with a separation of at least fifteen (15) feet from any other mobile home or structure;
-maintain a distance of at least two hundred (200) feet between any highway, public road or way on which the park fronts, and any mobile home or trailer;
-retain a buffer zone of at least sixty (60) feet between any home or trailer and the side and rear boundaries of the park. Such a buffer zone shall be primarily clear of obstruction except for trees or natural landscape materials. This zone shall not be used for any above ground structures;
-be so located that side and rear boundaries of the park are at least one hundred (100) feet from any existing house at the time this Bylaw becomes effective;
-the use of a mobile home park for the storage or parking of mobile homes or trailers for sale thereof is forbidden;
-the penalty for breach of any of the foregoing mobile home provisions shall not be in excess of $50.00 for each day or any portion thereof during which a violation is permitted to exist. Each such violation shall constitute a separate offense.

.12 Multiple Dwelling Units and Structures:

(Deleted: April 10, 2018 – Acting on Article 10)

.13 Accessory Apartment

Purpose and Intent:

The purposes of this Bylaw are to:

1. Provide affordable, community and year-round rental housing within the architectural context of the Town's single family home character.

2. Provide an opportunity for family members and seniors who choose to live in a close proximity, but separate to remain within that family environment.

3. Provide caregiver housing for the health and security concerns of elder or disabled homeowners who wish to remain in their homes.

04.00 RESIDENTIAL DISTRICTS

.04.03 USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.13 Accessory Apartment, continued

4. Provide homeowners with additional income to help them retain ownership of their homes.

5. Protect residential stability, property values, and the single family character of the neighborhoods.

6. Make it possible for the Town to supervise and monitor such additions for code compliance and safety.

Conditions:
Only one accessory dwelling unit is permitted in a single family residential dwelling pursuant to a special permit issued under the provisions of Section 04.03.13 and provided that:

(a) The lot on which the accessory apartment is situated is not in either the R3A or the Coastal District.

(b) The requirements of Schedule A (section 13.00) are met;

(c) No more than one (1) accessory apartment shall exist on a lot. If a guesthouse or accessory apartment exists on the lot, no additional accessory apartment shall be allowed.

(d) The accessory apartment shall measure no more than forty (40) percent of the existing habitable area not to exceed six- hundred (600) square feet in all residential districts. At no time shall either dwelling unit be made a condominium and held in separate ownership. The appearance of the building shall remain that of a single-family residence in keeping with the character of the neighborhood.

(e) The owner of the lot, who must be a resident of the Town, shall occupy either the accessory apartment or principal residence.

(f) The accessory apartment and the principal residence shall each have two separate means of egress to grade and meet all other applicable regulatory requirements.

(g) The owner is subject to the Department of Public Health's State Sanitary Code II, 105 CMR 410.000, entitled, Minimum Standards of Fitness for Human Habitation.

04.00 RESIDENTIAL DISTRICTS

.04.03 USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.13 Accessory Apartment, continued

(h) The owner must comply with the Tisbury Board of Health's Wastewater Regulations for subsurface sewage disposal systems

(i) The accessory apartment shall be provided with a minimum of one parking space, so arranged as to permit turning vehicles around, and precluding the necessity of backing onto a public way. The space(s) shall also be screened to minimize the visual impact from the street or abutting properties.

(j) No construction or business materials shall be kept on the premises;

(k) No commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises;

(l) No inoperative or unregistered vehicle shall be kept on the premises

EXCEPTION:

For conversion of an existing structure to provide for an accessory apartment without adding additional square footage the apartment may measure up to fifty percent of the existing habitable area, if the accessory apartment is utilized for:

- Affordable or caregiver housing for the duration of the accessory apartment - If the use as affordable or caregiver housing ends, then the accessory apartment no longer qualifies for the exception and must meet the requirements of Section 04.03.13.

- Apartments used for affordable housing shall be subject to the affordable housing restrictions overseen by the Dukes County Regional Housing Authority. Any such lease shall clearly state that year round occupancy of the accessory apartment is a condition of the lease.

- If used for caregiving, such apartment shall be subject to the requirement of an annual caregiver certification letter from a physician to the Inspector of Buildings and Zoning Board of Appeals.

04.00 RESIDENTIAL DISTRICTS

.04.03 USESE REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.13 Accessory Apartment, continued

- The owner of the accessory apartment shall provide the Inspector of Buildings and Zoning Board of Appeals with the name(s) of the caregiver for the owner or owner's family.

- The Zoning Board of Appeals must be notified in writing of any change of use (i.e. from affordable housing to care giving or the reverse)

- All other requirements for the provision of an accessory apartment shall be met

- In deliberating upon applications made under this Section 04.03.13, the Zoning Board of Appeals considerations shall include, but are not limited to:
  - traffic impacts;
  - overcrowding and congestion;
  - compatibility of proposed uses and structure(s) within the neighborhood;

PENALTY
An owner of a single family residence and associated accessory apartment violating this Bylaw shall be liable for a fine of $50.00 per day. Each day a violation continues constitutes a separate offense.

(Adopted: April 14, 15, and 22, 1992 - Acting on Article 40; Amended: April 14, 1998 - Acting on Article 18; on April 6, 2010, acting on Article 13; and on April 10, 2018 – Acting on Article 12)

04.04 USES REQUIRING A PERMIT FROM THE PLANNING BOARD

.01 Cluster Developments as hereinafter defined in Section 08.00

.02 Multiple Family Dwelling and Structures

For all developments with at least two (2) dwelling units (including apartments) and/or two (2) dwelling structures on one (1) lot, inclusive of new construction, modification of use; and, which results in increased occupancy capacity.

The Planning Board may grant Special Permits for applications coming within this description, provided:

04.00 RESIDENTIAL DISTRICTS

04.04 USES REQUIRING A PERMIT FROM THE PLANNING BOARD
.02 Multiple Family Dwelling and Structures, continued

a) multi-family dwelling**s** and/or structures shall not be sited on lots any portion of which lies below the fifteen (15) foot elevation contour line running along and inland of Lake Tashmoo, Vineyard Sound, Vineyard Haven Harbor and Lagoon Pond.
b) the lot area and setback requirements of Schedule A (section 13.00) are met for the district, except as set forth in section 08.00 ('Cluster Developments');
c) The applicant complies with the Tisbury Board of Health's Wastewater Regulations for subsurface sewage disposal.
d) each dwelling unit shall be provided with a separate parking and/or garaging, arrangements and so arranged as to permit turning vehicles around and precluding the necessity of backing onto a public way;
e) each dwelling unit shall have a discrete yard space designated for its use;
f) no construction or business materials shall be kept on the premises;
g) no commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises;
h) no inoperative or unregistered vehicle shall be kept on the premises;
i) at least one (1) dwelling structure shall front on a public way; each dwelling structure which fronts on a public way shall have the frontage required by Schedule A (section 13.00);
j) for dwelling structures which do not front on a public way there shall be an additional access frontage of forty (40) feet in the R50 District and thirty (30) feet in the R10, R20, and R25 Districts; said access widths shall extend and be arranged so as to serve all dwelling structures and parking areas on the premises; and, shall be designed to accommodate emergency vehicles (e.g. fire, police, ambulance); and,
k) where a building permit would be required to construct, enlarge or modify a dwelling unit or dwelling structure and/or where it is proposed to increase wastewater generating capacity, all of the definition requirements of Section 02.00 ('Multi-family Dwelling') shall be incorporated.
l) dwellings containing two (2) or more dwelling units in the same structure will provide each unit with at least two (2) entrances to the outside, and separate utilities and services

EXCEPTION
To promote year round affordable and community housing, the Planning Board through the special permit granting process may grant the following exceptions:

04.00 RESIDENTIAL DISTRICTS

04.04 USES REQUIRING A PERMIT FROM THE PLANNING BOARD
.02 Multiple Family Dwelling and Structures, continued

For affordable/community housing and/or housing for the elderly, there are no more than eight (8) dwelling units and/or four (4) dwelling structures (including guest houses)

Where a minimum of twenty-five percent of the dwelling units are permanently deed restricted for affordable housing and an additional twenty-five percent of the dwelling units are permanently deed restricted for community housing, the Planning Board may waive the requirements in Section 04.04.02 (b),(d), (e), (j) and (l), if the Planning Board finds that the development does not disproportionately impact the visual character of the adjacent neighborhood.

Affordable and community dwelling units shall be subject to the requirements and restrictions overseen by the Dukes County Regional Housing Authority for certification and annual recertification.

In deliberating upon applications made under this Section 04.04.02, the Planning Board considerations shall include, but are not limited to:

- health, safety and traffic impacts;
- overcrowding and congestion;
- preservation of open spaces and scenic values;
- protection of natural resources;
- compatibility of proposed uses and structure(s) with the neighborho**od;**

Further, the Planning Board shall give particular consideration to consistency with master planning policies and impacts upon municipal problems and projects.

The Planning Board shall not grant a Special Permit under this Section 04.04.02 unless it has found good and sufficient evidence that the plan is appropriate to the intent and purposes of the Zoning Bylaws, does not conflict with master planning policies, will not significantly aggravate an identified municipal problem(s) or impede municipal project

04.05 Residential District 3A (Map Symbol R3A):

The Zoning Bylaw provisions applying to Residential District R50 shall also apply to Residential District R3A; where there is a conflict, the more restrictive provisions hereafter set forth, shall apply to R3A.

04.00 RESIDENTIAL DISTRICTS

04.05 RESIDENT DISTRICT 3A (Map Symbol R3A)

.01 Minimum Lot Area and Dimensions:

Area	3 Acres
Depth	200 Feet
Frontage	200 Feet

.02 Setbacks (Principal and Subsidiary Structures):

Front	50 Feet
Side	50 Feet
Rear	50 Feet
Between Structures	50 Feet

.03 Maximum Building Heights:
From 21 to 35 feet in accordance with the table appearing in section 09.00 (Tisbury Island Road Districts).

.04 Maximum Number and Type of Non-farm Buildings:
One (1) only single family dwelling structure containing not more than five (5) bedrooms.

One (1) non-habitation detached subsidiary structure (e.g. garage, greenhouse, barn, etc.) with a total floor area not to exceed one-half (1/2) the total floor area of the principal structure.

.05 Definition: 'Well Site Reference Line'
For the purpose of the R3A District, a 'well site reference line' is a straight line bearing 310 degrees true (130 degrees reciprocal) which goes through the center of a designated public water supply well site and extends, in both directions, to the boundaries of the district. The line is a selected representation of a typical perpendicular to the average direction of ground water flow in the principal R3A aquifer area.

.06 Wastewater Disposal Systems: (specific systems)
There shall be no more than one wastewater disposal system per lot.

Wastewater disposal systems which are west of the 'well site reference line' for a designated public water supply well site shall be at least 1500 feet distant from the designated well site.

04.00 RESIDENTIAL DISTRICTS

04.05 RESIDENT DISTRICT 3A (Map Symbol R3A)

.06 Wastewater Disposal Systems: (specific systems), continued

Wastewater disposal systems which are east of the 'well site reference line' for a designated public water supply well site shall be at least 900 feet distant from the designated well site.

Nothing in this section shall be taken as limiting the authority of the Board of Health to require greater separation distances in specific cases.

.07 Water Supply Wells:
No private water supply shall be located on any lot for which connection to the public water system is available.

Private water supply wells which are west of the 'well site reference line' for a designated public water supply well site shall be at least 1800 feet from the designated well site.

Private water supply wells which are east of the 'well site reference line' for a designated public water supply well site shall be at least 700 feet from the designated well site.

There shall be no more than one (1) private water supply well per lot. The pumping capacity of water supply well systems shall not exceed ten (10) gallons per minute peak. This provision shall not be applicable to farms meeting the description of farm in section 04.05.09.

Nothing in this section shall be taken as limiting the authority of the Board of Health to require greater separation distances in specific cases; further, the Board of Health shall determine the minimum separation distances between wastewater disposal systems and water supply wells.

.08 Waste Disposal and Other Collections:
There shall be no private waste disposal or salvage collection sites of any kind, except the Board of Health may authorize certain small agricultural type composting facilities, provided the site for such facilities is at least as distant from a designated public water well site as is required for wastewater disposal systems in section 04.05.06

Heavy metals (e.g. tin, lead, zinc, etc.), unregistered (if design intended use would

04.00 RESIDENTIAL DISTRICTS

04.05 RESIDENT DISTRICT 3A (Map Symbol R3A)
.08 Waste Disposal and Other Collections, continued:

require registration) inoperative motor vehicles, and commercial vehicles (excluding vehicles used in connection with farming and pickup trucks and vans) shall not be stored or kept on any lot in the R3A District.

.09 Hazardous Chemical Substances:
Definition: 'Hazardous Chemical Substances' means any chemical substance hor concentrations or in low concentrations; the term 'Hazardous Chemical Substance' hazardous to human health and/or the environment in the usually available volumes is also inclusive of all substances which the state or federal government has designated as 'hazardous', 'toxic', or 'no discharge'.

The exclusions and prohibitions in this section 04.05.09 shall not apply to farm chemicals where state law permits farm use, provided:

- the farm is dedicated and registered;
- the farm comprises five (5) or more acres;
- the farm is subject to and in compliance with Massachusetts General Laws Chapter 111F (Hazardous Substances), 132B (Pesticides),
and 214, section 7A (Damage to the Environment) and State 'Right-to-Know' Codes 105 CMR 670.000, 310 CMR 33.00, and 441 CMR 21.00; and,
- use or storage is at least 1500 feet distant from a public water supply well site.

Note: These provisions are minimums and do not preclude further regulation by the Board of Health.

No fertilizers shall be stored or used without a permit from the Board of Health. Permits shall not be granted for storage or use closer to a designated public water supply well site than the minimum separation distances set forth in section 04.05.06.

No herbicides, defoliants, or insecticides (types prepared for outdoor use) shall be transported (into or through), stored, possessed or used in the R3A District.

Road salts (e.g. calcium chloride, sodium chloride, etc.) and petroleum oils shall not be applied to the land surface or roads, nor shall more than twenty-five (25) pounds of any types of 'rough' salt (including road salts) be stored on any lot. Storage of permitted quantities shall be arranged so as to prevent the salt from leaching into the ground.

04.00 RESIDENTIAL DISTRICTS

04.05 RESIDENT DISTRICT 3A (Map Symbol R3A)
.09 Hazardous Chemical Substances, continued:

The storage, possession or use of any hazardous chemical substance classified as 'toxic' or 'no discharge', other than common household substances in volumes and concentrations not to exceed six (6) gallons, is prohibited.

.10 Fuel Storage

No fuel storage tank or container shall have a capacity greater than 500 gallons nor be located closer to a designated public water supply well site than the minimum separation distances set forth in Section 04.05.06 for wastewater disposal systems.

On any lot, fuel storage tanks and containers shall not have a collective capacity, all storage tanks and containers and all liquid or gaseous fuels combined, greater than 500 gallons.
Exclusion: The integral component fuel tanks of vehicles and machinery, provided the tanks are:
- not in contact with the ground;
- arranged so that leakage would be readily detected;
- in conformity with the vehicle or machinery manufacturer's specifications; and,
- of a capacity, per vehicle or machinery unit, less than 60 gallons.

All fuel storage tanks or containers shall be located above ground.

All fuel tanks or containers, excepting those for vehicles and machinery as described in the above 'exclusion', which have a capacity greater than ten (10) gallons, shall be mounted inside of an impervious concrete vault of sufficient size and strength to contain the entire capacity of the fuel tank or container.

.11 Topsoil, Sand and Gravel:
No topsoil shall be removed or disturbed until all permits or authorizations required for the intended purpose have been granted.

Private sand, gravel or topsoil mining, including any form of 'borrow pit' operation, is prohibited.

04.06 Regulation:

.01 Lot size, setbacks and height shall conform to the requirements set forth in Schedule A of this Bylaw.

04.00 RESIDENTIAL DISTRICTS

04.07 Rate-of-Development:

.01 Construction shall not be begun on dwelling structures located within areas of land subject to the jurisdiction of the Planning Board under this Bylaw and Chapters 40A (re: Chapter 808 of the Acts of 1975) and 41, MGL, (including, but not limited to, subdivisions, cluster developments and multi-unit dwellings) at a rate greater than that permitted in the following provisions:

- Subdivisions containing sufficient area to provide more than ten (10) building lots at the maximum intensity permitted under the Zoning Bylaw shall begin construction of the dwelling structures at a rate not greater than one-tenth (1/10) of the total number of lots shown on an approved, definitive subdivision, plan each calendar year;
- Subdivisions containing sufficient area to provide ten (10) building lots or less at the maximum intensity permitted under the Zoning Bylaw shall be developed by construction of dwelling structures at a rate of not more than one (1) additional dwelling structure per calendar year.

.02 The rate-of-development provisions set forth above shall also apply to any valid subdivision plan which was properly recorded by the

Registry of Deeds prior to the effective date of Subdivision Control in the Town of Tisbury if no construction was begun during the five year period immediately preceding the effective date of this Bylaw and no building or construction permits, or applications for building or construction permits, were outstanding when this Bylaw became effective.

.03 Building and construction permits shall only be issued when the number of permits, and/or the time interval between permits is in conformity with the rate-of-development provisions of this Bylaw.

.04 Before any application is made for a building or construction permit applicable to a subdivision, or a lot in a subdivision is offered for sale, the owner(s) of the property shall cause to be recorded, under the same grant or index name as the development plan, with the Registry of Deeds, a rate-of-development schedule conforming to the provisions of this Bylaw. Said schedule shall identify the calendar year when a lot or lots become eligible under this Bylaw for building or construction permits. A copy of the recorded schedule shall be furnished to the Zoning Inspector and a copy shall accompany each application for a building or construction permit.

04.00 RESIDENTIAL DISTRICTS

04.07 RATE-OF-DEVELOPMENT, continued

At the expiration of a rate-of-development schedule, the Zoning Inspector shall create a new rate of development schedule for the next calendar year indicating the remaining undeveloped lots in the order that they appeared in the original rate-of-development schedule.

.05 Exemptions

The Planning Board may grant a Special Permit allowing a greater rate-of-development than that set forth in the preceding provisions when it has been determined that one (1) or more of the following considerations are sufficiently unique within the plan so as to reduce the impact upon the town in assimilating additional dwelling structures:

- reduction of density;
- provision for housing for low income or elderly persons;
- health and safety provisions;
- minimization of traffic congestion;
- prevention of overcrowding and congestion;
- arrangements which would tend to reduce, or minimize, Town service costs;
- protection of natural resources.

When the approved plan for development contains ten (10) or more building lots, a Special Permit authorizing an increase in the rate-of-development shall not allow construction to begin on more than 20% of the buildable lots in any calendar year.

When the approved plan for development contains less than ten(10) buildable lots, a Special Permit authorizing an increase in the rate-of-development shall not allow constriction to begin on more than two (2) of the buildable lots in any calendar year.

When the approved plan for development is to be devoted entirely to not-for-profit housing for the elderly, not-for-profit low or moderate income housing or similar not-for-profit housing in furtherance of public policy, the Special Permit may exempt such housing from part, or all, of the requirements for rate-of-development schedules, provided the developer is a non-profit corporation.

(Amend Section 04.07.04: April 13, 20 and 26, 1993 - Acting on Article 44)

05.00 BUSINESS DISTRICTS - 1 AND 2:

Except as provided in Section 07.00 hereof, no building structure within Business Districts 1 and 2 shall be constructed and no building, structure or land or part thereof, shall be used for any purpose or in any manner other than one or more of the uses hereinafter set forth. All land within Business District 1 (Map Symbol B1) and Business District 2 (Map Symbol B2) may be used for any of the following uses, under the following regulations, provided that all uses not specifically permitted shall be prohibited.

05.10 Business District - 1:

05.11 Uses Permitted:

.01 Any wholesale or retail business, service, office or public utility conducted indoors.

.02 Light manufacturing (free of excessive sound, light, odor, vibration, commotion or other noxious disturbances) where all materials are stored indoors and the major portion of the products thereof are sold on the premises by the producer to the consumer (e.g. jewelry store, bakery shop, arts and crafts).

05.12 Uses Requiring a Permit from the Board of Appeals:

.01 Private dwelling use and apartments provided that:
- no private dwelling or apartment use sited in a business structure shall be permitted on the first (1st) floor of any structure where such use did not exist during the proceeding two (2) years;
- there are two separate exits to the outside;
- each sleeping room has at least one window on each of two different outside walls;
- the Board of Health and the Fire Department approve; such approval may be conditional;
- hazardous materials and commercial inventories of foodstuffs are not kept on a floor, or floor level used for habitation purposes;
- commercial processes creating hazardous (toxic, flammable or explosive) vapors shall not take place in any structure, or on any lot where there is a habitation use;
- all commercial uses shall occur at a floor, or level, below habitation uses.

The Board of Appeals may require the installation of detection alarms for heat, smoke, fire or vapor hazards.

.02 <u>In Business District 1 only</u>, hotels, motels rooms-for-rent, boarding houses, food service establishments and the conversion of a residential structure/lot to business use (including expansion of existent business uses herein cited), provided that the

05.10 BUSINESS DISTRICTS - 1 :

05.12 USES REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.02 In Business District 1 only, continued

proposed use is determined to be in conformity with the intent purposes of this Zoning Bylaw and specifically:
- such use does not significantly conflict, in size and appearance, with existent uses; ,
- additional parking requirements can be accommodated within one-quarter (1/4) mile of the site,;
- such use would not significantly increase traffic congestion or hazards, and;
- the Board of Health determines that provisions for wastewater disposal are adequate.

The Board of Appeals may impose such conditions or restrictions as they shall find reasonable and necessary; including, but not limited to , seasonal or intermittent use restrictions.

Note: (1) At the time this Bylaw amendment became effective (1985), problem conditions relating to traffic, wastewater disposal and flood hazards would generally preclude issuing Special Permits under this section. This section makes possible the consideration of certain uses as major problem solutions become effective.

(2) The Zoning Board of Appeals may require the applicant to submit professional studies relating to traffic impacts, flood/storm conditions, pollution prevention or other necessary and pertinent data.

.03 Other retail businesses where sales, demonstrations, displays, services, and other activities, or some of them, are conducted other than in an enclosed building.

.04 Place of amusement, or assembly, or club conducted for profit.

.05 Tennis (or other ball game) courts provided they are within a building and not in excess of two courts per lot, or contiguous lots in common ownership.

.06 One (1) only swimming pool per lot, or contiguous lots in common ownership, provided the pool is located indoors and meets the requirements of Section 04.02.10.

05.13 Uses Requiring a Special Permit from the Planning Board:

.01 Uses set forth in Section 05.10 having 3,000 or more square feet of gross floor area, which shall include any new structure, or group of structures under the

05.10 BUSINESS DISTRICTS - 1 :

05.13 USES RQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

same ownership on the same lot or contiguous lots, or any improvement or alteration or change in use of an existing structure or group of structures.

.02 Special Permit Requirements. Plan Review by the Site Plan Review Board, as defined in Section 02.77 and provided for in Section 10.06, shall be required prior to the issuance of a Special Permit.

.03 Special Permit Findings. Before granting an application for a special permit, the Planning Board, with due regard to the nature and condition of the adjacent structures and uses in the district shall find all of the following general conditions to be in compliance with this by-law :

.01 The proposed use is consistent with the purpose and intent of this bylaw and with the Site Plan Standards for Review.

.02 The proposed use is appropriate for the specific site.

.03 The proposed use will not overburden any road, public water, public property, drainage or sewer system to such an extent that the proposed use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

.04 The proposed use shall not adversely impact the district's visual character, including views and vistas, and will improve opportunities for visual and pedestrian access within and through the district.

.04 Special Permit Conditions. The Planning Board may impose in addition to any applicable conditions specified in this by-law, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose and intent of the By-law and including:

.01 Screening of parking areas or other parts of the premises from adjoining premises, or from the street or from other public spaces by specific walls, fences, plantings, or other devices.

.02 Modification of the exterior features or appearances of the structure(s).

05.10 BUSINESS DISTRICTS - 1 :

05.13 USES RQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

.03 Limitation of size, number of occupants, method and time of operation, and extent of facilities.

.04 Regulation of number, design, and location of access drives, walks, or links and other traffic and pedestrian features within and through the district.

.05 Requirements of off-street parking and other special features beyond the minimum required by this by-law.

.06 Requirement for performance bonds or other security.

.07 Requirement of underground installation of utilities

.08 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, welfare or the environment.

(Adopted Section 05.13: April 29, 2014)

05.14 Regulations:

.01 Lot size, setbacks and heights shall conform to the requirements set forth in Schedule A of this Bylaw.

.02 Commercial laundries, wholesale distribution terminals and freight distribution terminals are prohibited.

.03 Where otherwise, under Section 05.10, both a Permit and a Special Permit application would be
required, single application shall be made to the Planning Board for a Special Permit.

05.20 BUSINESS DISTRICTS - 2:

05.21 Uses Permitted:

.01 Any use permitted in Business District 1 and so regulated.

05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED, continued:

.02 Multiple Dwelling Units (including apartments) and/or Structures, without a Special Permit, provided:

- the number of dwelling units does not exceed three (3) and the number of dwelling structures does not exceed two (2) on any lot, including contiguous lots in the same ownership; and,
- the conditions and requirements of Section 04.04.02 are met, except that the Schedule A (section 13.00) requirements for R10 shall apply.

.03 Food Service Establishments subject to the requirements of Schedule A (section 13.00) and Board of Health approval.

.04 Light manufacturing (free of excessive sound, light, odor, vibration, commotion or other noxious disturbance) where all materials are stored indoors, or screened from public view, provided shipping and receiving activities take place on the reverse side (rear) of the structure so as to be away from public entrances.

.05 Large-Scale Ground-Mounted Solar Photovoltaic Installations

.01.00 <u>Purpose</u>

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

.01.01 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment

05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.01 Applicability, continued:

Designated Location: Zoning Districts B- 2 (Business District II) is designated by town meeting vote, in accordance with Massachusetts General Laws Chapter 40A, section 5, as the location where ground - mounted large scale solar photovoltaic installations may be sited as-of right. Said locations are shown on a Zoning Map, for the Town of Tisbury, Dukes County, Massachusetts, last revised on 25 March 2003 pursuant to Massachusetts General Laws Chapter 40A Section 4. This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Tisbury Town Clerk.

.02.00 General Requirements for all Large Scale Solar Power Generation Installations

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

.01 Compliance with Laws, Ordinances and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

.02 Building Permit and Building Inspection
No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

.03 Fees
The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

.04 Site Plan Review
Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site

05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

02.00 General Requirements for all Large Scale Solar Power Generation Installations

.04 Site Plan Review, continued

Plan Review Board as defined in Section 02.77 prior to construction, installation or modification as provided in this section.

.03.00 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

.01 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

(a) A site plan showing:

i. Property lines and physical features, including roads, for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures

iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

vi. Name, address, and contact information for proposed system installer;

vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

viii. The name, contact information and signature of any agents representing the project proponent; and

(b) Documentation of actual or prospective access and control of the project site (see also Section 05.21.05;

(c) An operation and maintenance plan (see also Section 05.21.05

05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.01 Required Documents, continued

(d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);

(e) Proof of liability insurance; and

(f) Description of financial surety that satisfies Section 05.21.05

The Site Plan Review Board may waive documentary requirements as it deems appropriate.

.02 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

.03 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

.04 Utility Notification

No large- scale ground –mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

.05 Dimension and Density Requirements

.01 Setbacks

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.05 Dimension and Density Requirements, continued

.01 Setbacks, continued

(a) Front yard: The front yard depth shall be at least 10 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the front yard shall not be less than 50 feet.

(b) Side yard: Each side yard shall have a depth at least 15 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the side yard shall not be less than 50 feet.

(c) Rear yard: The rear yard depth shall be at least 25 feet; provided, however, that where the lot abuts a Conservation-Recreation or Residential district, the rear yard shall not be less than 50 feet:

.02 Appurtenant Structures

All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to Tisbury Zoning Bylaw Section 05.20.00 (Business District II) concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

.06 Design Standards

.01 Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded down to protect abutting properties. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

.05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.06 Design Standards, continued

.02 Signage

Signs on large- scale ground-mounted solar photovoltaic installations shall comply with Tisbury Zoning Bylaw Sections 05.23.01, (non-appurtenant signs) and 07.06 (Sign Regulations. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising and may be used for the identification of the manufacturer or operator of the solar photovoltaic installation only.

.07 Utility Connections

Reasonable efforts, as determined by the Site Plan Review Board shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

.08 Safety and Environmental Standards

.01 Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly
marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

.02 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large – scale ground-

.05.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.08 Safety and Environmental Standards

.02 Land Clearing, Soil Erosion and Habitat Impacts ¸continued

mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

.04.00 Monitoring and Maintenance

.01 Solar Photovoltaic Installation Conditions

The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic
installation and any access road(s), unless accepted as a public way.

.02 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Board.

.05.00 Abandonment or Decommissioning

.01 Removal Requirements

Any large- scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 3.12.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

5.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.05.00 ABANDONMENT OR DECOMMISSIONING

.01 Removal Requirements, continued

(a) Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation**.**

.02 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Board. If the owner or operator of the large- scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

.03 Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal,

5.20 BUSINESS DISTRICT - 2:

05.21 USES PERMITTED:

.05 LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

.03.00 GENERAL

.05.00 ABANDONMENT OR DECOMMISSIONING

.03 Financial Surety, continued

prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

(Amend Section 05.00: April 5, 2011 - Acting on Article 12)

05.22 Uses Requiring a Permit from the Board of Appeals

.01 Lumber yard, wood milling shop, sheet metal shop, automotive vehicular sales and/or services (includes all forms of automotive repair and service, body work and painting; does not include stores selling parts and packaged materials only).

.02 Activities regularly involving welding, spray painting, toxic chemicals or hazardous materials.

.03 Other retail businesses where sales, demonstrations, displays, services, and other activities, or some of them, are conducted in other than an enclosed building.

.04 Place of amusement, or assembly, or club conducted for profit.

.05 Tennis courts not to exceed four (4) in number subject to the regulations set forth in Section 04.02.11.

.06 One (1) only swimming pool per lot or set of contiguous lots in common ownership, provided that:
- if located outdoors, the requirements set forth in Section 04.03.10 are met;

- if located indoors, plans shall be submitted with the seal and signature of a qualified registered professional engineer.

.07 Automobile dismantling, used yard parts, salvage (junk) yard. The Board of Appeals may grant a Special Permit provided:

5.20 BUSINESS DISTRICT - 2:

05.22 USES REQUIRING A PERMIT FROM THE BOARD OF APPEALS

.07 Automobile dismantling, used yard parts, salvage (junk) yard, continued

- the site, as enclosed and screened, is at least 150 feet from a principal way, road, or street;
- the distance from ground surface to ground water is determined and found to be not less than twenty (20) feet;
- impervious raised pads rimmed and provided for the storage of chemicals (including petroleum products) and heavy metals;
- all federal, state and local regulations applicable to hazardous materials/wastes are complied with;
- no materials of any kind shall be disposed of subsurface; and,
- the site is secured against unauthorized entry use.

The Board may impose such additional conditions and restrictions as it shall determine to be appropriate and shall specify enclosure, screening, maximum activity and storage permitted.

.08 Hotels, Motels and Apartments where there are more than three (3) dwelling units or more than two(2) dwelling structures on any lot, including contiguous lots in the same ownership, provided:
- excepting low/moderate income housing or housing for the elderly, there are no more than eight (8) dwelling units and/or four (4) dwelling structures on any lot, including contiguous lots in the same ownership; and,
- excepting that Schedule A (section 13.00) requirements shall be those that apply to R10, and the conditions and requirements of Section 04.03.12 are met.

05.23 Uses Requiring a Special Permit from the Planning Board

.01 Non- Appurtenant Signs: Business District 2

Non-Appurtenant signs, as defined in the Zoning By-Law Section 07.06.01, may be permitted by Special Permit only upon the Planning Board's written determination that the proposed signage will not constitute a hazard, promote blight or pollution, visual or otherwise, nor have any adverse effects on the proposed sign location, or the town.

Only a permitted business located in the Business District 2 on a parcel with no frontage on State Road is eligible for special permit consideration.

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD
.01 Non- Appurtenant Signs: Business District 2, continued

The application for a special permit under this section shall be signed by the owner of the property on which the proposed sign is to be located or shall be accompanied by a written authorization signed by the owner of such property. If the proposed sign is to be located on Town property located within the Business District 2, written authorization of the Board of Selectmen shall be required.

The Planning Board may impose reasonable conditions on the special permit, including but not limited to conditions regarding the materials, location and installation of the proposed sign.

The area of all non-appurtenant signs shall be part of the total signage allowed on the subject parcel pursuant to Section 07.06.04 of this By-law. No more than one non-appurtenant sign structure shall be permitted on a parcel. Within the limits of the restrictions on “Self Supported” and “Hanging Signs”, a “Ladder” or directory sign may contain several individual signs of a uniform aesthetic or architectural style.

All non-appurtenant signs shall be subject to the requirements applicable to hanging signs, pursuant to Section 07.06 of this By-law, as well as 780 C.M.R. 3102.0.

The Special Permit is personal to the applicant. Any change in ownership or tenancy will void this special permit.

Any non-appurtenant sign determined by the Zoning Enforcement Officer to be structurally unsound or improperly maintained so as to pose a blight or hazard may be required by the Zoning Enforcement Officer to be removed at the owner’s expense, if the deficiencies are not corrected within thirty (30) days of written notice of such determination.

The owner must remove any non-appurtenant sign for any occupation, business, commodity or service or entertainment within thirty (30) days of the permanent cessation of same or it may be required by the Zoning Enforcement Officer to be removed at the owner’s expense.

(Adopted on February 20, 2007 – Acting on Article 17)

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

.02 Registered Marijuana Dispensaries (RMD, hereinafter) and Recreational Marijuana Establishments (RME hereinafter) Applicability.

This section provides that:

01. No RMD or RME shall be established except in compliance with the provisions of this Section.

02. Nothing in this Section shall be construed to supersede federal and state laws governing the possession, sale and distribution of narcotic drugs.

03. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extend it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected.

.03 General Requirements and Conditions for all Registered Marijuana Dispensaries and Recreational Marijuana Establishments

01. No application for a special permit is complete without the applicant demonstrating that they have acquired all license**s** and permits as required by 105 CMR 725.000 for RMDs or MGL Chapter 94G, and the regulations of the Massachusetts Cannabis Control Commission for RMEs.

02. All RMDs and RMEs shall be contained within a building or structure.

03. The maximum allowance for the cultivation of medical or recreational marijuana shall not exceed 2500 sq. ft.

04. The hours of operation of a RMD or RME shall be set by the Planning Board, but in no event shall a RMD or RME be open and/or operating between the hours of 8:00 PM and 8:00 AM.

05. Any RMD, RME or similar facility shall not be located within 100 feet of an existing school, daycare facility, playground, public park, public athletic field or similar public recreation facility, or any place where children commonly congregate, and a half-way house.

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD
.03 General Requirements and Conditions for all Registered Marijuana Dispensaries and Recreational Marijuana Establishments, continued

06. No smoking or burning or consumption of marijuana or marijuana related products shall be permitted on the premises of an RMD or RME.

07. Signage for a RMD shall be limited to one (1) sign, fixed flat against the building up to one (1) square foot of sign for each lineal foot of building frontage, not to exceed ten (10) square feet in area. Said sign shall include the following language "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries". The required text shall be a minimum of two inches in height. A RME shall comply with the sign regulations in Section 07.06.00.

08. All print and electronic advertisements for Medical marijuana facilities, including but not limited to flyers, general advertising signs, and newspaper and magazine advertisements, shall include the following language "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries". Oral advertisements for Registered Marijuana Dispensaries, including but not limited to radio and television advertisements shall include the same language. Recreational Marijuana Establishments must clearly advertise that "only those 21 and older may enter or purchase product".

09. RMDs and RMEs shall provide the Special Permit Granting Authority with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.

10. No person who is not at least 18 years of age shall be permitted on the premises of a RMD during hours of operation unless that person is a qualified patient or caregiver with a valid registration card. No person under 21 may enter, or purchase product at a RME.

11. The potential discharge of THC and nitrogen into wastewater shall be addressed with the Board of Health for a remediation plan, and submitted to the Planning Board, if required.

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

.04 Special Permit Conditions & Restrictions for all Registered Marijuana Dispensaries and Recreational Marijuana Establishments

01. A RMD and RME may only be allowed by special permit from the Special Permit Granting Authority **(**the Planning Board) in accordance with MGL c.40A s.9, subject to the following statements, regulations, requirements, conditions and limitations

02. The applicant shall provide a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report. The applicant shall in addition provide a copy of its Articles of Incorporation or equivalent documents, a current Certificate of legal Existence from the Secretary of the Commonwealth, and the most recent annual report. If the applicant is a public agency, evidence of the agency's authority to engage in the development of the RMD or RME as proposed by the application must be provided.

03. The applicant shall provide copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD or RME.

04. The applicant shall provide evidence of the applicant's right to use the site of the RMD or RME for the RMD or RME**,** such as a deed, lease, purchase and sale agreement or other legally-binding document

05. Special Permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application.

The Special Permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

06. Special Permits shall be valid for a period of one (1) year from the date of the decision. Not less than three (3) months prior to the expiration of the special permit, it shall be incumbent upon the applicant to apply to the Tisbury Planning Board for a renewal of the special permit. Said permit shall be valid for a five (5) year term, and renewable for successive five (5) year periods provided that a written request for renewal is made to the Tisbury Planning Board not less than three (3) months prior to the expiration of the then-existing five (5) year period.

Amend Section 05.00: April 29, 2014 - Acting on Article 14; and on April 10, 2018- Acting on Article 13)

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

.05 Uses set forth in Section 05.20 having 3,000 or more square feet of gross floor area, which shall include any new structure, or group of structures under the same ownership on the same lot or contiguous lots, or any improvement or alteration or change in use of an existing structure or group of structures.

.01 Special Permit Requirements. Plan Review by the Site Plan Review Board, as defined in Section 02.77 and provided for in Section 10.06, shall be required prior to the issuance of a Special Permit.

.02 Special Permit Findings. Before granting an application for a special permit, the Planning Board, with due regard to the nature and condition of the adjacent structures and uses in the district shall find all of the following general conditions to be in compliance with this by-law:

.01 The proposed use is consistent with the purpose and intent of this bylaw and with the Site Plan Standards for Review.

.02 The proposed use is appropriate for the specific site.

.03 The proposed use will not overburden any road, public water, public property, drainage or sewer system to such an extent that the proposed use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

.04 The proposed use shall not adversely impact the district's visual character, including views and vistas, and will improve opportunities for visual and pedestrian access within and through the district.

.03 Special Permit Conditions. The Planning Board may impose in addition to any applicable conditions specified in this by-law, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose and intent of the By-law and including:

.01 Screening of parking areas or other parts of the premises from adjoining premises, or from the street or from other public spaces by specific walls, fences, plantings, or other devices.

5.20 BUSINESS DISTRICT - 2:

05.23 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

.05 USES SET FORTH IN SECTION 05.21 HAVING 3,000 OR MORE SQUARE FEET OF GROSS FLOOR AREA

.03 Special Permit Conditions, continued

.02 Modification of the exterior features or appearances of the structure(s).

.03 Limitation of size, number of occupants, method and time of operation, and extent of facilities.

.04 Regulation of number, design, and location of access drives, walks, or links and other traffic and pedestrian features within and through the district.

.05 Requirements of off-street parking and other special features beyond the minimum required by this by-law.

.06 Requirement for performance bonds or other security.

.07 Requirement of underground installation of utilities

.08 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, welfare or the environment.

(Adopted on April 12, 2016 – Acting on Article 14)

05.24 Regulations:

.01 Lot size, setbacks and height shall conform to the requirements set forth in Schedule A of this Bylaw.

.02 Industrial activities and heavy manufacturing are prohibited.

.03 Where otherwise, under Section 05.20, both a Permit and a Special Permit application would be required, a single application shall be made to the Planning Board for a Special Permit.

06.00.00 WATERFRONT/COMMERCIAL DISTRICT

06.01.00 The purpose of this District is to manage the character, function and integrity of Vineyard Haven's waterfront by: maintaining and enhancing the existing marine character and water dependent uses of the area; encouraging year-round businesses; improving water quality, promoting public access to the water front, and implementing the goals and objectives of the Waterfront Land Use Study, dated June 1994.

06.02.00 Boundaries. In order to fulfill the purpose of this bylaw, there shall be two (2) management areas.

The Waterside Management Area shall be bounded by the R-25 District, the mean high water along the Vineyard Haven harbor, the Lagoon Harbor Park District, a line equidistant between mean high water and the centerline of Beach Road, and a line equidistant between mean high water and the centerline of Water Street thence to the R-25 District.

However, the boundary line shall not be less than one hundred (100) feet from mean high water, nor shall it be beyond the centerline of Beach Road**.**

The Waterside Management Area shall also be bounded by the Lagoon Harbor Park District, a line one hundred (100) feet inland from the mean high water of Lagoon Pond, the centerline of Lagoon Pond Road and the mean high water of Lagoon Pond thence to the Lagoon Harbor Park District.

The Commercial Management Area shall be bounded by the Waterside Management Area, the B-I and the R-10 Districts.

06.02.01 The Zoning Map of the Town shall reflect the change in title to the District and the two management areas.

06.03.00 Applicability. No land shall be used and no structure shall be occupied or erected except in compliance with the provisions of this by-law. All uses not specifically permitted shall be considered to be prohibited.

06.04.00 Uses permitted in the Waterside Management Area.

.01 Agricultural, religious, educational, municipal or governmental, child care, and any other use specifically required to be permitted by Chapter 40A of the General Laws.

(Amend Section 06.04.01: October 22, 1996 - Acting on Article 2)

.02 Parks, esplanades, walkways, and other pedestrian facilities that promote use and enjoyment of the water by the general public.

.03 Aquaculture facilities.

.04 Wildlife refuges, bird sanctuaries, nesting areas, or other wildlife habitats.

06.00.00 WATERFRONT/COMMERCIAL DISTRICT

06.04.00 USES PERMITTED IN THE WATERSIDE MANAGEMENT AREA:

.05 Commercial fishing and fish processing facilities.

.06 Boatyards and other facilities related to the construction, servicing, maintenance, repair or storage of vessels.

.07 Facilities for tug boats, barges, dredges, or other vessels engaged in port operations or marine construction.

.08 Marine terminals, fuel docks, and related facilities for the transfer of goods between ship and shore.

.09 Mixed use **(**Refer to Section 02.00 of the Tisbury Zoning Bylaw**).**

06.05.00 Uses permitted in the Commercial Management Area.

.01 All uses permitted in the Waterside Management Area.

.02 Consumer, professional or commercial service establishments, provided that all hazardous or toxic materials are adequately contained, stored and secured.

.03 Professional, business or social service offices.

.04 Retail trade.

.05 One detached single family dwelling.

06.06.00 Uses Requiring a Special Permit from the Planning Board:

.01 Warehouses in the Waterside Management Area (Refer to Section 02.00 of the Tisbury Zoning Bylaw).

.02 Outdoor storage of bulk materials in the Waterside Management Area

.03 Any change or substantial extension of a non-conforming use, or reconstruction, extension or structural change of a non-conforming structure.

.04 Marinas.

.05 Facilities for water-based recreational activities.

.06 Land based waterborne passenger transportation facilities.

.07 Research or training facilities dedicated primarily to marine purposes.

06.00.00 WATERFRONT/COMMERCIAL DISTRICT

06.06.00 USES REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD:

.08 Food Service Establishments such as restaurants, outdoor cafes, bakeries or delis in the Commercial Management District.

.09 Accessory uses to water dependent uses **(**Refer to Section 02.00 of the Tisbury Zoning By-law).

.10 Any operation which renders land area impervious to water including, but not limited to, the building of any structure or the paving of any walking, driving or parking surface.

.11 Where otherwise, under Section 06.00, both a Permit and a Special Permit application would be required, a single application shall be made to the Planning Board for a Special Permit.

(Section 06.06 Amended: April 29, 2014 as Article 15)

06.07.00 Special Requirements. Plan Review by the Site Plan Review Board shall be required prior to the issuance of: a Special Permit, a permit to construct a structure, a permit to alter the exterior appearance of a structure, or a permit to use land. All such applications shall be referred to the Site Plan Review Board by the Building Inspector and the Zoning Enforcement Officer.

.01 The Site Plan Review Board shall act as an advisory body to the Planning Board and to the Building Inspector and the Zoning Enforcement Officer. The Board shall perform its duties, as listed in Section 10.06.01 to ascertain an application's compliance with the Site Plan Standards For Review.

The Site Plan Standards for Review for the Waterfront Commercial District as adopted on June 26, 1999, will be amended from time to time by the Tisbury Planning Board, and will be on file with the Tisbury Town Clerk.

Said members shall be appointed for a term of two years.

The Site Plan Review Board shall act as an advisory body to the Planning Board and to the Building and Zoning Inspector.

(Section 06.07 Amended: April 29, 2014 as Article 15; April 25, 2017 as Article 12)

06.08.00 Dimensional & Other Lot Requirements

Minimum Frontage .....20 ft. minimum
Floor Area Ratio ..... 0.5 maximum (to be calculated using the first and second floors only)
Front Setback .....20 ft. minimum
Cumulative Side Setback .....20 ft. min., 4 ft. min. ea. Side

06.00.00 WATERFRONT/COMMERCIAL DISTRICT

06.08.00 DIMENSIONAL & OTHER LOT REQUIREMENTS, CONT.

Rear Setback:
Not abutting tidewater.....30 feet minimum
Abutting tidewater.....50 feet minimum

Fences, gates, stonewalls or other similar barriers, not customarily defined as structures, shall not be constructed or placed within 30 horizontal feet of mean high water of any salt water body.

Height of Buildings .....28 feet maximum (Refer to Section 02.20 of the Tisbury Zoning Bylaw)

.01 Open Space.
Not less than 40% of the lot area shall consist of open space, free from impervious surfaces.

.02 Vehicular Access.
No more than 10% of the lot area shall consist of off-street loading, delivery and parking. The site shall be designed so that no vehicle back onto a public way, or be parked on a public way while loading, unloading or waiting to do so.

06.09.00 Special Permit Findings:

Before granting an application for a special permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses in the district shall find all of the following general conditions to be in compliance with this by-law:

.01 The proposed use is consistent with the purpose and intent of this by-law and with the Site Plan Standards for Review.

.02 The proposed use is listed in Section 06.06.00.

.03 The proposed use is appropriate for the specific site.

.04 The proposed use will not overburden any road, public water, drainage or sewer system to such an extent that the proposed use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

.05 The proposed use shall not adversely impact the district's visual character, including views and vistas, and will improve opportunities for visual and pedestrian access to the waterfront.

06.00.00 WATERFRONT/COMMERCIAL DISTRICT

06.10.00 SPECIAL PERMIT CONDITIONS:

The Planning Board may impose, in addition to any applicable conditions specified in this by-law, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose and intent of the By-law and including:

.01 Screening of parking areas or other parts of the premises from adjoining premises, or from the street or from the water by specific walls, fences, plantings, or other devices.

.02 Modification of the exterior features or appearances of the structure(s).

.03 Limitation of size, number of occupants, method and time of operation, and extent of facilities.

.04 Regulation of number, design, and location of access drives, walks, or links and other traffic and pedestrian features.

.05 Requirement of off-street parking and other special features beyond the minimum required by this by-law.

.06 Requirement for performance bonds or other security.

.07 Requirement of underground installation of utilities.

.08 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment.

(Amended on April 23, 24 & 25, 1996 - Acting on Article 28; Amended on April 10, 2001 – Acting on Article 13; April 9, 2002 – Acting on Article 14, and on April 29, 2014 – Acting on Article 15)

07.00 GENERAL REGULATIONS:

07.01 PRE-EXISTING NON-CONFORMING USES AND STRUCTURES:

Except as hereinafter provided, a zoning bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to applications made for Permits, Special Permits, building, and/or construction, permits submitted before the first publication of the notice of public hearing on such bylaw.

.01 Regulations:

This Zoning Bylaw shall apply, except as in Section 07.01.02 and Section 07.01.03, to the following:
- any change or substantial extension of a non-conforming use;
- reconstruction, extension or structural change of a non-conforming structure;
- any alteration of a structure, begun after the first publication of notice of public hearing of the Bylaw, to provide for its use for a substantially different purpose or for same purpose in a substantially different manner or to a substantially greater extent;
- a building or construction permit, Permit or Special Permit issued after the first publication of notice of public hearing of the Bylaw;
- a non-conforming use or structure that is damaged by fire, hurricane or other catastrophe may be restored or rebuilt and used again as previously, provided that this is done within two (2) years, and that the rebuilding or restoration following the catastrophe is not greater in extent or type of activity than the original;
- *abandonment*: a non-conforming use which has been abandoned for a period of two (2) years shall not be re-established and any future use shall conform with the Bylaw;
- *changes*: once changed to a conforming use, no structure shall be permitted to revert to a non-conforming use, except where this Bylaw makes provision for Permit consideration;
- *exemption*: where alteration, reconstruction, extension or structural change to a single-family residential structure does not increase the non-conforming nature, neither public hearing nor Permit from the Board of Appeals is required for said alteration, reconstruction, extension or structural change, provided that it conforms to all statutory and Bylaw requirements in effect when the work was done.

.02 The Board of Appeals may, after a public hearing, grant a Permit to allow a pre-existing non-conforming use to be changed to a different non-conforming use, provided that the change reduces the degree of non-conformity through such changes as reduced auto or truck traffic, smaller or fewer signs, less floor area or land devoted to the use, less discernible noise, vibration, odor, or light, or exterior appearance more consistent with that of the district.

07.00 GENERAL REGULATIONS:

07.01 PRE-EXISTING NON-CONFORMING USES AND STRUCTURES:

.03 The Board of Appeals may, after a public hearing, grant a Permit to allow a pre-existing non-conforming use or structure to be expanded in an area where, in the opinion of the Board, such expansion will not be more objectionable to, or detrimental to, the character of the neighborhood than the original pre-existing non-conforming use or structure.

07.02 PRE-EXISTING NON-CONFORMING LOTS:

Notwithstanding any other provision of this Bylaw, on any vacant lot, which has not previously been built upon, a dwelling may be located on any lot, in any District provided that such a lot:

- was lawfully laid out by plan or deed duly recorded with the Dukes County Registry of Deeds;
- at the time of endorsement or recording, whichever occurred sooner, was not held in common ownership with any adjoining lot;
- at the time of endorsement or recording, whichever occurred sooner, conformed to the existing requirements;
- has at least five thousand (5000) square feet of area and fifty (50) feet of frontage;
- meets the front setback requirements of Schedule A and the following minimum side yard an rear yard setbacks*:

Side Yard Setbacks:
The minimum side yard setbacks shall be a percentage of the Schedule A minimum side yard setback requirement. The percentage shall be determined by dividing the actual lot frontage by the Schedule A requirement for minimum frontage.

(Amend Section 07.02: April 26, 1994; Acting on Article 43)

Rear Yard Setbacks:
The minimum rear yard setback shall be a percentage of the Schedule A minimum rear yard setback requirement. The percentage shall be determined by dividing the actual lot depth by the Schedule A requirement for lot depth.

*Notes: (1) These provisions are applicable only where the actual lot frontage or depth is less than the Schedule A minimum requirements; and, where otherwise the lot is a qualified pre-existing non-conforming lot. These provisions do not preclude

07.00 GENERAL REGULATIONS:

07.02 PRE-EXISTING NON-CONFORMING LOTS:

the 'increase' protection afforded a lot which once conformed but could not meet a subsequent 'increase' requirement.

(2) Frontage is the length of the lot boundary line(s) along a way, street or road. Depth is the distance from the frontage boundary to the most distant opposite boundary. The frontage and depth measurements shall be those shown on a survey plan recorded with the Dukes County Registry of Deeds and appearing on the most current revision of the Assessor's Maps.

(3) These provisions do not waive or reduce setback requirements which are required by Flood/Storm, Coastal, Wastewater Disposal, Aquifer Protection, Pollution Control Wetlands or other similar overlay regulations.

07.03 WEDGES AND IRREGULAR SHAPED LOTS:

.01 Wedges:
The Wedge shaped lots which occur as a result of a cul-de-sac.

.02 Irregular Shaped Lot:
Based upon a substantial variation in depth, and/or width, measurements. A lot where the difference between the maximum and minimum measurements of the depth, and/or width, respectively, of the lot exceeds the minimum measurement by 20% shall be considered an irregular shaped lot.

.03 For wedges and pre-existing irregular shaped lots, minimum frontage may be measured at the declared front wall of the proposed building or structure, provided such lots have at least fifty (50) feet of frontage measure at the street line.

.04 Where two (2) or more lots are proposed to be created by a Form C Subdivision, no more than one (1) irregular shaped lot, with respect to the hereinafter fifty (50) feet of frontage provision, may be created; said irregular shaped lot may have the minimum frontage measured at the declared front wall of the proposed building or structure, provided that such lot has at least fifty (50) feet of frontage measured at the street line and that all other lots shall conform to the minimum frontage requirements.

Said regulation does not apply to the further division of lots created in an original subdivision.

07.00 GENERAL REGULATIONS:

07.03 WEDGES AND IRREGULAR SHAPED LOTS:

(Amend Section 07.03.04: April 29, 2014 – Acting on Article 16)

07.04 DEEP LOT PROVISIONS

Where a lot fronting on a public way has sufficient frontage to meet Schedule A (section 13.00) requirements and sufficient additional frontage to provide for an access way to the rear and sufficient area in the rear for one (1) or two (2) additional lots, the Planning Board may endorse* or approve* a plan creating such rear lots and accesses, provided:

- the lot fronting on the public way has sufficient frontage to meet the district requirements set forth in Schedule A (section 13.00) and additionally has sufficient frontage for an access way of thirty (30) foot width in the R10, R20, and R25 Districts and forty (40) foot width in all other Districts;
- the access way is laid out along one of the depth boundary lines such that an existing or proposed structure meets the Schedule A (section 13.00) side setbacks;
- the access way is continuous to the rearmost lot in full width, forty (40) or thirty (30) feet as applicable;
- the intervening lot, if any, between the front and rear lots, fronts on the access way for at least the frontage required by Schedule A (section 13.00);
- the access way , from the public way to the rear lot, is or becomes a part of the rear lot;
- the layout of the proposed access way would not conflict with any existent or proposed public way patterns or existing subdivision ways; and,
- in the R3A District, application of this section shall be under 'subdivision' (Chapter 41, MGL meaning of 'subdivision') processing rules only.

*re: Chapter 41, sections 81K through 81GG, MGL (a/k/a The Subdivision Control Law); to 'endorse' means to endorse that approval under the subdivision control law is not required; to 'approve' means to approve as a subdivision. There are specific requirements relating to a division of land, whether or not a subdivision, set forth in Chapter 41, MGL.

07.05 HEIGHT REGULATIONS:

.01 Principal Structure:
No structure shall exceed thirty-five(35)feet in height, including the chimney(s),as measured from the mean natural grade.

07.00 GENERAL REGULATIONS:

07.05 HEIGHT REGULATIONS:

.01 PRINCIPAL STRUCTURE, continued:

Radio and television antennas, flag poles and similar slender structures may be erected upon the principal structure, provided they do not extend, vertically, more than twenty (20) feet above the actual maximum height of an existing or permitted structure.

No principal structure shall have more than three (3) vertical slender structures attached, as in the above provision.

(Amended on April 12, 2016 – Acting on Article 17)

.02 Detached Structure:

Any antenna, flag pole or similar slender structure which is not attached to a structure incorporating a subsurface foundation and which is over forty (40) feet in height shall have complete structural drawings and specifications prepared by a qualified registered professional engineer.

Excepting governmental institutions, no antenna, flag pole or similar slender structure shall exceed eighty (80) feet in height above the mean natural grade of the lot and lots adjacent thereto, nor shall the structure herein above set forth be so located as to have its base less distant from the nearest lot boundary than 110% of its height above the mean natural grade in all districts except in the B-2 Business District.

In residential areas, such detached slender structures, as herein set forth shall require a Permit from the Board of Appeals for heights in excess of forty (40) feet.
In the B-2 Business District, such detached slender structures, as herein above set forth, shall not be so located as to have its base less distant from the nearest lot boundary than 110% of its height above the mean natural grade. Such detached slender structures shall require a Permit from the Board of Appeals for heights in excess of eighty (80) feet.

(Amend Paragraph 2 and Add Paragraph 4: May 2, 3, 7, 14 and June 5, 1990 - Acting on Article 71)

07.06 SIGN REGULATIONS

.01 .Except as provided in Zoning By-Law Section 05.23.01, no non-appurtenant signs shall be permitted. A non-appurtenant sign shall mean any sign which directs attention to an occupation, business, commodity, service or

07.00 GENERAL REGULATIONS:

07.06 SIGN REGULATIONS:

entertainment supplied or originated on other than the premises of which the sign is located.

.02 In Residential Districts and for residential uses in non-residential districts, signs advertising ownership or occupancy, services offered, or for rent shall be limited to three (3) square feet in total area. In addition, a temporary For Sale sign, not to exceed one (1) square foot in area, shall be permitted.

.03 On religious, educational or government property with buildings, signs shall be limited to ten (10) square feet in total area.

.04 In Business Districts 1 and 2, and in the Commercial District, a business may be identified by a sign or signs up to one (1) square foot of sign for each lineal foot of building frontage, provided the aggregate of all external signs pertaining to all businesses conducted on a given premise shall not exceed thirty-two (32) square feet. The maximum size per sign for signs affixed flat against a building shall be twenty (20) square feet. Hanging signs shall not exceed eight (8) square feet per sign. The area of a hanging sign with but two (2) parallel display surfaces not over six (6) inches apart shall be determined by the measurement of a single face; for all other configurations, the area of a hanging sign shall be the sum of the areas of all display surfaces.

Self-supported signs (including signs not attached to buildings) shall be regulated as hanging signs. The Board of Selectmen, in considering whether or not to approve self-supported and/or hanging signs that are within 100 feet of a public way, shall especially consider safety factors (resistance to collapse, danger of being struck, danger of being moved by storm forces and the potential for distracting or impeding traffic in a hazardous manner).

.05 In open land, woods or agricultural land, signs shall be limited to sixteen (16) square feet, with a minimum setback from the road of not less than twenty (20) feet, advertising only the uses of the property or For Sale or For Rent signs. No signs shall be painted on or affixed to any tree, fence, utility pole, rock or ledge.

.06 No sign shall extend beyond the property line of the business to which it refers.

.07 Signs painted or placed on the inside of the glass of a window shall not in size exceed 50% of the window area.

07.00 GENERAL REGULATIONS:

07.06 SIGN REGULATIONS:

.08 There shall be no neon, internally illuminated, flashing, occulting or moving signs, pennants or whirligigs.

.09 Present signs not conforming to this Bylaw may be continued for the life of the sign but not renewed.

(Amended on February 20, 2007 – Acting on Article 18)

07.07 PARKING REGULATIONS:

.01 General Requirements

All Off-street Parking shall be accessory to a permitted use.

Applications for permits requiring twenty (20) or more parking spaces, shall be accompanied by a parking plan of the lot and be referred forthwith to the Planning Board for their review and written advisory report; and no permits for construction shall be issued prior to the receipt of said report unless thirty (30) days have elapsed from the date of referral.

Plans subject to Site Plan Review by the Planning Board shall show existing and proposed topography, water, sanitary sewerage and storm drainage, and response to criteria for safety provisions and for landscaping.

(Amended on February 20, 2007 – Acting on Article 18)

.02 Business District I and Waterfront/Commercial District:

Business District I and the Waterfront/Commercial District shall be exempt from these requirements.

.03 Business District II

All increase in parking demand created by new structures or uses, additions to existing structures or uses, and change of use in existing structures, shall be accommodated on the premises entirely off-street.

Minimum Off-Street Parking Requirements -
Vehicle Spaces:

07.00 GENERAL REGULATIONS:

07.07 PARKING REGULATIONS:
.03 BUSINESS DISTRICT II, continued

Dwelling Units
(private or commercial).....2/
Offices
(client occupancy).....1/150 sq. ft.*
Employer(s)
(working on the premises).....1/
Food Service Establishments
Counter Service.....3 PLUS .....1/ 2 ft. counter length
Seated Service.....1/ 2 seats
Assemblages**
1/3 persons permitted occupancy
Business Vehicles & Trucks.....1/
Trailer Tractors.....1/
Trailers.....1/
Semi-trailers ..... 1/ 20 ft. of length or fraction thereof
Trade and Manufacturing
on premises delivery.....3
off premises delivery.....2
Room (as in Rooming House).....1/
Retail Store.....1/ 150 sq. ft.***

and, in addition to the above, one (1) parking space for each person employed on the premises.

*....wall to wall measure
**...theaters, clubs, meetings rooms/halls, private for profit schools, etc.
***..wall to wall measure excluding only office and warehouse sections separated by permanent partitions.

Exceptions:

Where the total minimum off-street parking requirement is more than six (6) spaces and the site is in the Business District II, the Zoning Board of Appeals may; on a finding of good and sufficient reasons and by the Special Permit process, allow up to a one-third 1/3) reduction in the total on-site and off-street requirements; or may allow up to one-half (1/2) of the original minimum total requirements to be met by spaces on other property in the same district and within one-tenth (1/10) of a mile of the site. If an off-site location is used, the property shall be in the same ownership as the site or there shall be documentation which designates a specific area exclusively reserved for the applicant's off-street parking requirements, such documentation shall be of a quality and cover such time period as the Board finds appropriate. Off-site locations shall not be used where sidewalks are not available or there are otherwise unsafe arrangements.

These exception provisions recognize that, in certain situations, a parking space could effectively serve more than one business.

07.00 GENERAL REGULATIONS:

07.07 PARKING REGULATIONS
.03 BUSINESS DISTRICT II, continued

(a) No off-street parking shall be maintained within ten (10) feet of a street line.

For parking areas of six (6) spaces or more, the following shall apply:
- their use shall not require backing onto a public way;
- there shall be not more than one (1) entrance and one(1) exit from such lots per three hundred (300) feet of street frontage or fraction thereof. If necessary, to meet this requirement, users shall arrange shared egress;
- such lots shall be screened from any abutting residential use by densely planted shrubs or similar means.

For parking areas of twenty (20) spaces or more, the following shall apply:
- the lot shall contain or be bordered by a five (5) foot wide planting strip buffer with at least one (1) tree per eight (8) parking spaces; trees are to be of two (2) inch trunk diameter:
  or larger, with not less than twenty-five (25) square feet of unpaved soil area per tree;
- egresses shall be designed so as to provide a safe and unobstructed view of traffic in each travel direction.

(Reformat Section 07.07.03: April 11, 2000 - Acting on Article 21)

.04 Residential Districts

(a) Parking requirements for roadside stands and rented rooms shall be provided as required in Section 07.07.03 of this Bylaw.

(b) Multiple Dwelling Units and Structures

(I) Each dwelling unit shall be provided with a minimum of two (2) vehicular parking spaces, so arranged as to permit turning vehicles around and precluding the necessity of backing onto a public way.

(II) No commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises.

(III) For dwelling structures which do not front on a public way there shall be an additional access frontage of forty (40) feet in the R50 District and thirty (30) feet in the R10, R20, and R25 Districts; said access widths shall extend and be arranged so as to serve all dwelling structures and parking areas on the premises; and, shall be designed to accommodate emergency vehicles (e.g. fire, police, ambulance).

07.00 GENERAL REGULATIONS:

07.07 PARKING REGULATIONS:
.04 RESIDENTIAL DISTRICTS

(c) Accessory Apartment:

There shall be a minimum of one (1) parking space, not less than ten feet by twenty feet, per accessory apartment. The spaces shall be located so as to minimize the visual impact from the street or abutting properties by a minimum landscaped area setback of ten feet.

(Amend Section 07.07: April 14, 1998 - Acting on Article 19; Amend and reformat Section 07.07.04: April 11, 2000 - Acting on Article 21)

07.08 MOBILE HOMES, TRAILERS AND CAMPERS:

The storing or occupying for residential or business use of a mobile home, trailer or similar facility is prohibited, except as provided in Section 04.00. However, mobile homes, travel trailers or similar facilities used for a construction office or for construction storage are allowed on the premises where and as long as construction is taking place, provided that prior to being placed on the site, such use has been authorized in writing by the Fire Chief upon his determination that no fire hazard is being created; and that the Police Department has been notified. Also, a camper, camping trailer (recreational vehicles) registered to the occupant, may be kept on the premise in other than a front yard, but not occupied.

07.09 NOISE, ILLUMINATION AND ODORS:

Any non-residential use permitted in any Residential District shall be so situated, landscaped and constructed to prevent the transmission of excessive sound, light, odor, vibration, commotion or other noxious disturbance to adjoining properties.

In Residential Districts and Business Districts, it shall be considered a violation of the uses permitted under this Bylaw if, between the hours of 11:00 p.m. and 7:00 a.m., a property owner, a member of the property owner's family, an employee, agent, or lessee of the property owner shall cause or allow excessive noise, unnecessary bright outside illumination, or offensive odors and the effects thereof are not wholly contained within the owner's property.

07.10 SCIENTIFIC ACCESSORY USES:

Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or 'scientific development' or related production, may be permitted upon the issuance of a Permit, provided the Board of Appeals finds the proposed accessory use does not substantially derogate from the public good.

07.00 GENERAL REGULATIONS:

07.11 MULTI-UNIT DWELLINGS - SPECIAL PERMIT DETERMINATION:

The Planning Board shall, in accordance with Special Permit procedures, make a determination of the need and consistency with public policy of any plan or development proposing Multi-Unit Dwelling structures in all zoning districts. No permits endorsing or approving plans or authorizing facility or structure construction shall be issued in conflict with, or in excess of said determination. These provisions are applicable to single lots, multiple lots, developments and subdivisions; they are not applicable to the uses permitted in Section 04.00 (Residential Districts).

(Amend Section 07.11: April 29, 2014 – Acting on Article 18)

Exceptions:
This section shall not apply to:

Developments totaling not more than three (3) lots, three (3) dwelling structures and six (6) dwelling units, provided that at the time this Bylaw became effective, no property contiguous to the proposed development was owned, in whole or in part, by the developer.

Developments devoted entirely to not-for-profit low or moderate-income housing or not-for-profit elderly housing provided that the developer is a non-profit corporation and certifies to the permit granting authority(s) these aforesaid conditions.

07.12 EXCAVATION AND TOPOGRAPHIC ALTERATION

When planned or intended construction would require permits, or other authorizations, no excavation, removal or relocation of topsoil shall occur prior to the granting of all permits, or authorizations, necessary to complete the construction.

The provisions of this section shall not apply to:

- activities related to locating, installing or testing a water supply well;
- the construction of a single minimum width, un-improved and un-surfaced access road;
- the minimum necessary land surface disturbance required to accomplish surveys, install bounds or small markers, or to accomplish soil tests.

07.13 LAGOON HARBOR PARK:

The land comprising 'Lagoon-Harbor Park' is entirely owned by the Town of Tisbury and contains three separate parcels (the parcels are separated by the 'Beach Road', also known as 'The Massachusetts State Highway', and by the waters of Vineyard Haven Harbor; there are no intervening 'lots'). For the purposes of uniform and discriminating reference, these parcels are identified as:

07.00 GENERAL REGULATIONS:

07.13 LAGOON HARBOR PARK, continued

'Harbor' (Assessor's Lot 10A02)
'Eastville Point' (Assessor's Lot 10A03)
'Lagoon Pond' (Assessor's Lot 10B04)

.01 Uses Permitted:
<u>'Harbor' Parcel:</u>
The following permitted uses are applicable to the present 'un-improved' conditions and may be re-defined if the town votes to install structural 'improvements', alter the topography, or change the near shore seabed profile.

Government survey and/or range monuments or markers.

Fisheries (recreational or commercial)

Daylight Hours Only:
Normal beach uses (walking, swimming, sunning, etc.)

Recreational Boating (small craft only)

<u>'Harbor' Parcel</u>, continued

WARNING: DUE TO TRAFFIC ON BEACH ROAD, THE LANDSIDE ACCESS IS HAZARDOUS!

<u>'Eastville Point' Parcel:</u>

The following permitted uses are applicable to the present 'un-improved' conditions and may be re-defined if the town votes to install structural 'improvements', alter the topography, or change the near shore seabed profile.

Government survey and/or range monuments or markers.

Fisheries (recreational or commercial).

Normal beach use (walking, swimming, sunning, etc.)

07.00 GENERAL REGULATIONS

07.13 LAGOON HARBOR PARK

.01 USES PERMITTED, continued.

Recreational boating (small craft only), provided that the Lagoon Pond Bridge Channel is not obstructed.

WARNING: LANDSIDE ACCESS IS THROUGH THE TOWN OF OAK BLUFFS AND MAY BE RESTRICTED OR REGULATED; ALSO, THE ACCESS/EGRESS POINT AT THE PUBLIC WAY IS HAZARDOUS!

A BIRD SANCTUARY IS LOCATED ADJACENT TO THIS PROPERTY; THE SITE AND ITS PURPOSE SHOULD BE RESPECTED!

<u>'Lagoon Pond' Parcel:</u>
Government survey and/or range monuments or markers.

Boat launching/docking, small craft shore docking, and vehicular (including boat trailer) parking in areas designated and/or arranged for these purposes.

Walking, bicycle paths, scenic landscaping and other similar passive uses as may be provided for in the rules of the Park and Recreation Commission.

.02 Uses Prohibited:
All classes of uses not specifically permitted under Section 07.13.01 are prohibited. The prohibited uses hereinafter listed are representative of use classes (i.e. 'in the nature of' or 'similar to'); prohibitions are not limited to the specific uses enumerated.

<u>'Harbor' Parcel:</u>
Any game or activity involving a free projectile.

The use of bright lights.

<u>'Harbor' Parcel,</u> continued
Any activity or conduct which would be hazardous to the vehicular traffic on Beach Road.

<u>'Eastville Point' Parcel:</u>
Any game or activity involving a free projectile.

07.00 GENERAL REGULATIONS

07.13 LAGOON HARBOR PARK
.02 USES PROHIBITED, continued

Water skiing, etc. (see Waterways - Coastal and Marine Resource Management Bylaws).

All forms of motor vehicles, unless authorized by the Board of Selectmen.

Obstructing, defacing or interfering with any government monument, marker or aid-to-navigation.

<u>'Lagoon Pond' Parcel:</u>
Any game or activity involving a free projectile.

Any game, activity or use which could reasonably be expected to cause, or begin to cause, injury to grasses, plants, marshes or wetlands.

The use or placement of any form of vehicle in areas not specifically designated and/or arranged for the purpose.

The launching, docking, placement or drawing-up of boats in any place or area not specifically designated or arranged for the purpose.

Uses and activities at or on the sites designated or arranged for boat launching, docking/drawing-up and/or for vehicular parking contrary to any administrative rule or order of the Board of Selectmen; in other areas of this parcel, contrary to the rules established by the Park and Recreation Commission.

07.14 FENCING AND BARRIERS FOR Hazards:

Notwithstanding any other provisions in the Zoning Bylaws, the Zoning Board of Appeals may grant a Special Permit for fences or barriers, with or without setbacks and to such heights as the Board determines to be appropriate, where it has identified a significant hazard to public health or safety. Further, the Board may require such fencing or barriers as a conditions of granting a Special Permit.

07.15 MULTIPLE DWELLING UNITS AND STRUCTURES - CONVERSION:

No existent hotel, motel or apartment shall be converted to, used as, occupied for, or advertised as, a different* form of multiple dwelling unit or structure unless it has

07.00 GENERAL REGULATIONS

07.15 MULTIPLE DWELLING UNITS AND STRUCTURES – CONVERSION, continued

complied with the current Zoning Bylaw requirements for Multiple Dwelling Units and Structures.

*Different means different than the existent/established hotel, motel or apartment use, including changes to the characteristic use periods and/or from commercial to private in Business or Commercial Districts.

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)

.01 Purpose

The purpose of Section 07.16 of the Zoning Bylaw is to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community; to establish guidelines, standards and procedures to regulate the permitting and installation of communication antennae, structures, buildings, and appurtenances in order to:

a. facilitate the provision of wireless telecommunications services to the residents and businesses of the town;
b. minimize “adverse visual effects” of towers and antennae through careful design and siting standards;
c. avoid potential damage to adjacent properties from tower or other structural failure through structural standards and setback requirements;
d. maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunications antennae in order to reduce the number of towers needed to serve the community, and
e. preserve property values and the aesthetic character of Tisbury.

02. Definition:

For the purposes of section 07.16 a wireless communication facility shall mean any tower, mast, antenna or any transmitter or any portion thereof; fixed to any land or structure; freestanding or mobile, together with any guy wires and/or accessory structures used in the provision of wireless communication services.

.03 Special Permit and Granting Authority:

07.00 GENERAL REGULATIONS

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)

.03 SPECIAL PERMIT AND GRANTING AUTHORITY, continued

The Tisbury Planning Board shall be the Special Permit Granting Authority. The Planning Board may adopt and amend regulations for the implementation of this section, including application procedures and submittal requirements.

In those cases in which the only proposed activity is the construction and operation of the Wireless Communication Facility, no other special permit shall be required under the provisions of this bylaw.

.04 Use Regulations:

Applicants seeking approval for a Wireless Communication Facility (WCF) shall further comply with the following:

1) The Wireless Communication Facility Application Procedures as written and approved by the Tisbury Planning Board.

2) Any applicant must demonstrate that the proposed WCF facility is necessary in order to provide adequate service to the public.

3) Areas prohibited; A WCF is prohibited in residential districts, and shall be located so as to minimize adverse visual effects on the landscape.

4) To the extent lawful and feasible, all service providers shall co-locate on a single tower, provided, that if this is an existing structure, the applicant shall demonstrate that the additional equipment and/or the installation thereof will not compromise the stability, safety or structural integrity of said structure. The applicant shall submit documentation of the legal right to install and use the proposed facility mount. The applicant shall have the burden of proving that a good faith effort has been made to co-locate, and that it is not feasible to locate on an existing structure. Failure to meet this burden shall be grounds for denial of the application.

5) New facilities or structures shall be considered only upon a finding by the Planning Board that existing or approved facilities or structures cannot accommodate additional wireless communications equipment as proposed.

07.00 GENERAL REGULATIONS

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)
.04 USE REGULATIONS, continued:

6) New towers specifically built for communications purposes shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) technically practicable. The applicant is required to document all co-location tenants and provide a tower design indicating types and location of all facilities.

7) Height Limit-- The height limit will be up to forty-five feet above the pre-construction natural grade for all WCF, regardless of zoning district, except that components attached to pre-existing buildings or support structures which are higher than 45 feet and which are otherwise in compliance with this by- law may be mounted as high as, but not higher than the pre-existing structure.

8) Visibility / camouflage-- WCF facilities shall be camouflaged as follows:

a) Camouflage of WCF components mounted on or to existing buildings and structures;
When a WCF extends above the roof height of a building lower than 45 feet on which it is mounted, every effort shall be made to conceal every component within or behind existing architectural features to limit its visibility from public view. Any WCF component mounted on a roof shall be stepped back from the front facade in order to limit its impact on the building silhouette.

WCFs that are side mounted shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

b) Camouflage by vegetation: If WCF**s** are not camouflaged from public viewing areas by existing buildings or structures, or are not located on existing structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective
year round visual buffer**.** A Ground mounted WCF shall have a vegetation buffer of 50 feet or more in width, and of sufficient height to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The applicant shall submit a landscape design determining the types of trees and plant materials and depth of the needed buffer, based on site conditions and the height of the proposed tower. To the extent that any WCF extends above the height of the

07.00 GENERAL REGULATIONS

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)
.04 USE REGULATIONS, continued:

vegetation immediately surrounding it, it shall be painted in a light gray or light blue hue that blends with sky and clouds.

9) Strength of structure-- Any WCF structure or component shall be able to withstand sustained winds of 140 miles per hour.

10) Setbacks and fencing -- The minimum setback from a tower or mast to the nearest lot line shall be the height of the tower or mast plus fifty feet. A WCF must be at least 300 feet from any residence or wetland, and must be at least 1000 feet from any historic district, school, and playground or recreation center. Any guy wires, anchors or any part of the structure will be considered as part of the WCF and must meet the setbacks. All ground level components including, but not limited to, antenna support structures, equipment enclosures and backup power supplies shall have an eight-foot high secure fence surrounding the perimeter of the antenna support structure, which fence shall also be included in the setbacks. Access shall be through a locked gate.

11) Lighting-- Towers or masts shall not be illuminated except as required by the FAA or other applicable Federal or State agencies.

12) An approval letter issued by the Massachusetts Department of Public Health stating compliance of the proposed WCF with maximum radio frequency emission standards must be received directly by the Town of Tisbury before any permit may be issued under this by-law.

13) Testing -- All WCFs shall be tested bi-annually at the owner's expense by an independent professional technician appointed by the Town. The results of the test shall be completed and submitted to the Board of Health no later than the anniversary of the date of the initial permit approval. All test results as required by the FCC or the State of Massachusetts shall be sent to the Board of Health. In the event that state and federal standards are not met, including but not limited to FCC guidelines and Massachusetts Department of Public Health Regulations (105 CMR

14) Testing, cont. - 122.015**)** the WCF shall cease to operate immediately and until such time as such WCF passes such standards, as detailed in a subsequent written report of the independent professional technician.

07.00 GENERAL REGULATIONS

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)
.04 USE REGULATIONS, continued:

15) Noise -- No WCF shall emit noise greater than *50 decibels* as measured from the base of the facility. Any violation of this excessive noise provision must be corrected within 5 business days of notice to the provider. The building inspector shall immediately report any failure to correct such excessive noise violation to the Planning Board.

16) Any additions and alterations affecting permits issued under the terms of this bylaw shall be subject to review by the permit granting authority and shall require an amendment to the special permit, pursuant to a public hearing.

17) Term -- All permits issued under this bylaw shall be for a term not exceeding ten years. A permit issued under this section may be renewed upon application to the Planning Board prior to the date upon which the permit would expire.

18) Abandonment and Disassembly -- Any WCF which becomes damaged to the extent of becoming a public hazard, and/or for which a permit has expired or been revoked, or which ceases to operate for a year or more shall be considered abandoned and must be disassembled and the site fully restored to its former condition, excepting vegetation, at the direction of the Town and at the expense of the owner/operator. Every owner/operator of a WCF shall be required to post and maintain a bond with the Town of Tisbury in the amount of $10,000.00 to cover such costs.

19) Exceptions -- This bylaw shall not apply to:

01. An amateur radio or television antenna not licensed for any commercial purpose.

02. A tower or antenna erected by the Government, Commonwealth of Massachusetts, or Town of Tisbury for a public safety communications purpose.

05. Waivers from these regulations:

01. If an applicant proves that the height limitations provided for existing structures or for new construction prohibit the provision of Personal Wireless Services the Board may consider a waiver of this condition up to 150 feet.

07.00 GENERAL REGULATIONS

07.16 WIRELESS COMMUNICATIONS FACILITIES (WCF)

05. WAIVERS FROM THESE REGULATIONS, continued:

02. If an applicant can demonstrate that the absence of allowable locations in residential districts results in an effective prohibition of wireless services, the Board may consider a waiver of location to allow for such installations provided that, to the extent possible these are concealed in existing buildings or structures (i.e. steeples, flag poles, light poles or transmission poles).

.03 The Board may hire its own Radio Frequency Engineer, at the expense of the applicant to review applicant's findings supporting their request for a waiver(s) under this subsection of the bylaw.

(Adopt Section 07.16: April 11, 2000 - Acting on Article 17; Replaced Text in Section 07.16: April 9, 2002 – Acting on Article 13)

08.00 CLUSTER DEVELOPMENT AND PLANNED UNIT DEVELOPMENT:

08.01 CLUSTER DEVELOPMENT:

The Planning Board may grant a Special Permit for the 'creation' of a cluster development in any Residential District. The objective of a cluster development is to provide flexibility of design for non-transient residential development to allow better relation to natural features of the land. Lots may contain less than the minimum area, frontage, and/or front, side, and rear setbacks as prescribed in this Bylaw; provided that the following requirements are met:

.01 The development shall contain ten (10) acres or more.

.02 The number of dwelling units shall not exceed the number obtained by dividing the District lot area requirements of Schedule A into the land area of the development; excluding land previously precluded from development under the Wetlands Protection Act or other prohibitions, excluding land determined by the Planning Board to be unbuildable because of natural physical conditions such as topography, and excluding 15% of the remaining buildable land area.

No section, portion or geographic unit comprising five (5) or more acres within the development, shall exceed the density of dwelling units which would otherwise be permitted in the District in which the development is located. Density determination of irregularly shaped sections, portions or geographic units shall be based upon actual area. The density determination of the remainder shall be made by the single placement of a grid overlay which has been divided into five (5) acre squares.

.03 Individual lots shall meet the linear dimensional requirements of Schedule A for the R10 District irrespective of the District in which they lie.

.04 Parking lots shall not be considered part of the system of access.

.05 All land not designated for roads, parking, or lots for dwellings shall be reserved as common open space.

The minimum width of common open space between any group of lots and adjacent property or another such group of lots shall be at least fifty (50) feet.

Such open land shall either be conveyed to the Town and accepted by it for park or open space, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space; or to be conveyed to a corporation or trust owned or to be owned by the owners of the lots or residential units within the plot. If such a corporation or trust is utilized,

08.00 CLUSTER DEVELOPMENT AND PLANNED UNIT DEVELOPMENT

08.01 CLUSTER DEVELOPMENT, continued

ownership thereof shall pass with conveyances of the lot or residential units. In any case where such land is not conveyed to the Town, a restriction, enforceable by the Town, shall be recorded providing that such land be kept in an open state and not built upon for residential use or developed for accessory uses such as parking or roadway.

Where such open land is conveyed to a corporation or trust, as described above, maintenance shall be permanently assured through an incorporated homes association, through which each lot owner in the development is automatically involved and each lot is subject to a charge for a share of the maintenance expenses.

.06 Each application submitted for consideration as a cluster development shall have been prepared by or with the assistance of a team of professionals including a registered civil engineer or registered surveyor. A detailed plan, illustrating location of sites, buildings and related facilities shall be submitted, along with detailed written statements describing the intent of the developers in such detail as the

Planning Board require. Additionally, the prospective developer shall submit detailed drawings of building elevations and any information which might be required by the Planning Board to assist in its review process.

07. Approval of a cluster development shall be granted only upon the Planning Board determination that the plan is superior to a conventional one in preserving open space for conservation or recreation; in utilizing natural features of the land; in allowing more efficient provision of streets, utilities and other public services; and at least equal to a conventional plan in other respects. Means of achieving these objectives include:

- minimizing driveway openings on through streets, or near street intersections;
- minimizing extensive topographic change necessitating vegetation and tree removal;
- preservation of scenic views from public ways;
- preservation of natural landscape in large contiguous areas enhancing the likelihood of the continuation of existing ecosystems;
- contiguity with preserved open space for a large proportion of the lots having reduced lot area;

08.00 CLUSTER DEVELOPMENT AND PLANNED UNIT DEVELOPMENT

08.01 CLUSTER DEVELOPMENT, continued

- variations in lot sizes and building arrangements;
- use of common open space to protect valuable natural environments such as stream valleys, outstanding vegetation or scenic spots, and to avoid development on geographically unsuitable land.

.08 The Special Permit shall include conditions to ensure the non-transient use of dwellings in the development, including restrictions on short-term rentals, use of an on-site rental office, and resort-style advertising; and shall provide that not more than five (5) detached single-family dwelling units shall be concurrently offered for rental by the same principals.

08.02 Planned Unit Development:

This Bylaw does not provide for, nor authorize, Planned Unit Developments.

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 harbor front to the beginning of the Town property adjacent to the Lagoon Pond, thence 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.

09.00 SPECIAL OVERLAY DISTRICTS:

09.01 COASTAL DISTRICTS:

.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;
- 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.

09.00 SPECIAL OVERLAY DISTRICTS:

09.01 COASTAL DISTRICTS:

(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:

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.

09.00 SPECIAL OVERLAY DISTRICTS:

09.02 TISBURY ISLAND ROAD DISTRICTS

.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:

- 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.

09.00 SPECIAL OVERLAY DISTRICTS:

09.02 TISBURY ISLAND ROAD DISTRICTS:

.04 REGULATIONS AND RESTRICTIONS, continued:

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.

(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:

Minimum Front Setback*	Maximum Height**
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.

09.00 SPECIAL OVERLAY DISTRICTS:

09.02 TISBURY ISLAND ROAD DISTRICTS:

.04 REGULATIONS AND RESTRICTIONS, continued:

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.

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:

.01 Purpose:

The Special Ways designation protects old cart paths and trails that are cultural and historic links to the community's past, recreational resources for the enjoyment of the outdoors, a conservation resource to accommodate and promote non-motorized forms of travel, links to other trails and roads, and spaces of quiet beauty. The goal of the regulation is to preserve the character of the old ways and retain the abutting landscape. Additionally, the regulation is to protect and prevent the injurious effects that would accompany development of the Ways as a primary vehicular route.

Special Ways are often old path which have been abandoned or used infrequently. They are usually unimproved, rustic and narrow, and generally have very little or no vehicular traffic. The oldest Special Ways are among the last vestiges of the travel network of the past. They may provide archeological resources or means or retracing historic accounts of the development of Tisbury.

Special Ways vary in terms of their present and potential recreational and vehicular use. They may provide or allow for public access or they may be private. Determination of whether the public has the right to use a Special Way often involves complex legal principles but such a determination is not necessary for an old way to be designated a Special Way.

09.00 SPECIAL OVERLAY DISTRICTS

09.03 SPECIAL WAYS DISTRICTS:

.01 Purpose (Cont.):

The Special Ways Zone includes the path or road and adjacent land within 20 feet of either side of the centerline.

Special Ways are designated after a process involving a public hearing, approval of the Martha's Vineyard Commission, and a 2/3 vote of Town Meeting.

.02 Designated Special Ways:

References in this section to the Tisbury Assessors Maps are to the maps dated January 1, 1990 unless otherwise noted.

Red Coat Hill Road: Within twenty feet of either side of the centerline of **Red Coat Hill Road**, from West Tisbury/Tisbury line easterly to Deer Hill Road. (2014 Map)

Shubael Weeks Road a/k/a Shubael Weeks Path*:* Within twenty feet of either side of the center line of **Shubael Weeks Road** – From the West Tisbury town line northernly to it juncture with John Hoft Road. (2014 map)

03. Uses Permitted:

Any residential, recreational, agricultural or open space use permitted in the respective zoning districts, subject to existing regulations and restrictions, provided that the development does not result in direct vehicular access to the Special Way.

04. Regulations:

01. Development and use within a Special Way Zone shall not block or prevent non-motorized means of travel such as walking, horseback riding, and bicycling along a Special Way.

02. There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent routine maintenance and repair of Special Ways.

09.00 SPECIAL OVERLAY DISTRICTS

09.03 SPECIAL WAYS DISTRICTS:
.01 Regulations(Cont.):

03.No Special Way shall be paved with any impervious material, *such as bituminous concrete or asphalt,* except for segments that may be approved for crossing over a Special Way.

04. There shall be no removal of existing vegetation within a Special Way Zone other than to keep the Special Way clear of debris and overgrown vegetation, except as permitted as part of a Special Permit or where the width of a Special Way Zone extends beyond a pre-existing fence or beyond where a fence may be allowed.

05. No stone wall shall be moved, removed or otherwise altered except for repair, except by Special Permit from the Planning Board.

06. No fences, walls, structures, excavations, fill or obstructions shall be made, erected, placed or constructed within the Special Way Zone except by Special Permit from the Planning Board, except for gates, bars or stiles designed to regulate passage for non-vehicular travel or for vehicular travel where allowed. However, pre-existing, non-conforming constructions**,-**clearings**,** and gates may be maintained, but may not be expanded.

Fences exception: Where the Special Way lies within any part of a building lot that is less than one acre in area, fences may be erected within the Special Way as follows:

- Fence must be at least 50% transparent (such as picket fence or split-rail fence).

- If fence height is under 4 feet, the fence must be at least 5 feet from the center line or 1 foot outside the top edge of the physical embankment alongside the Special Way, whichever is greater.

- If fence height is 4 to 6 feet, the fence must be at least 10 feet from the center line.

07. Relocation of a portion of a Special Way may be approved by the Planning Board by Special Permit, after holding a public hearing and finding that the relocation would: preserve the continuity of the Way, create new trail

09.00 SPECIAL OVERLAY DISTRICTS

09.03 SPECIAL WAYS DISTRICTS:
.01 Regulations(Cont.):

connections, provide increased public trail access, improve safety, or otherwise enhance the way. Relocation may be considered for the purpose of aligning Ways with property lines. However it is beyond the jurisdiction of the Planning Board to either grant or extinguish public or private rights-of-way by such action.

08. Where direct vehicular access is not allowed on the Special Way, vehicles may cross such a way by a proposed dirt, paved or otherwise improved roadway at, or nearly at, right angles. Proposed crossings must be reviewed and approved by the Planning Board by Special Permit. Vehicles may not use this provision to travel along the Way for any distance to gain access to a property. Consideration of such proposed crossings shall include appropriate means to draw attention to the crossing for people's safety. Proposed crossings must be reviewed and permitted by the Planning Board by Special Permit.

09. No non-native plantings shall be allowed within the Special Ways Zone except by special permit from the Planning Board.

05. Special Ways Regulations Relating to Vehicular Use:

01. Vehicular use is permitted by right if the Way was so used prior to acceptance of a Special Way nomination by the Martha's Vineyard Commission. The nature and extent of pre-existing vehicular use may not be increased without a Special Permit from the Planning Board.

02. In planning development along a Special Way resulting in increased vehicular use of the Way, every effort must be made to minimize the length of the Special Way travelled by vehicles, for example through driveway placement.

03. Development or subdivision of land along a Special Way may not use the Special Way for new access when alternative access is reasonably available.

04. Criteria to be used by the Planning Board in review of Special Permit applications for new or increased vehicular use:

a. A landowner wishes to develop or sub-divide his land and no other access is reasonably available. In this case, the access points must be located as close as

09.00 SPECIAL OVERLAY DISTRICTS

09.03 SPECIAL WAYS DISTRICTS:

.01 Special Ways Regulations Relating to Vehicular Use (Cont.):

possible to the end of the Way nearest a road or as close as possible to the nearest portion of the Way already traveled by vehicle.

b. In the case of sub-division of the property, a single access driveway or road onto the Special Way is required whenever possible.

06. Additional Consideration:

01. The Planning Board may grant a Special Permit for other development, uses or structures for which the imposition of regulations would otherwise deprive the landowner of all other reasonable uses.

(Adopted Section 09.03: June 13, 2020 – Acting on Article 6)

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 FLOODPLAIN 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

09.00 SPECIAL OVERLAY DISTRICTS

09.05 FLOODPLAIN DISTRICT

.01 PURPOSE, continued

sited, constructed, and arranged so as to preclude or minimize Flood/Storm effects.

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 Floodplain District Boundaries:

The Floodplain 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 25007C0082J, 25007C0083J, 25007C0084J, 25007C0101J, 25007C0102J, 25007C0103J, 25007C0104J and 25007C0111J dated July 20,2016.

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 20, 2016. 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.

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:

09.00 SPECIAL OVERLAY DISTRICTS

09.05 FLOODPLAIN-DISTRICT

.02 FLOODPLAIN DISTRICT BOUNDARIES, continued

- Section of the Massachusetts State Building Code (CMR 780)which addresses flood plain and coastal high hazard areas.

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)

- Inland Wetlands Restriction, Department of Environmental Protection DEP (currently 310 CMR 13.00);

- Coastal Wetlands Restriction, Department of Environmental Protection DEP (currently 310 CMR 12.00);

- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Protection 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 Floodway Data:

In Zones A, A1-A30, and AE, along watercourses that have not had a regulatory floodway designated the best available federal, state and local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood (flood having a one percent chance of being equaled or exceeded in any given year) discharge.

.04 Notification of Watercourse Alteration

In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

a. Adjacent communities,
b. NFIP State Coordinator
   Massachusetts Department of Conservation and Recreation – 251 Causeway Street, Suite 600-700, Boston, MA 02114-2140
c. NFIP Program Specialist
   Federal Emergency Management Agency
   99 High Street, 6th Fl, Boston, MA 02110

.05 Use Regulations:

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

09.00 SPECIAL OVERLAY DISTRICTS

09.05 FLOODPLAIN-DISTRICT

.05 USE REGULATIONS, continued

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

All subdivision proposals must be designed to assure that:

a. Such proposals minimize flood damage;
b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
c. Adequate drainage is provided to reduce exposure to flood hazards.

Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

.06 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);
- North American Vertical Datum (NAVD) 1988
- The Flood Insurance Rate Map

.07 Floodplain Rules and Regulations:

Coastal and Elevation Data Plans may be a required attachment for all properties in the Town of Tisbury located within all flood hazard zones, as defined by the Dukes County Flood Insurance Rate Maps.

There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, and Building Inspector for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

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

.08 Exceptions, Waivers and Appeals:

Any variance to the requirements of state regulations or FEMA's minimum standards for floodplain management must go through the proper state channels and conform to FEMA's guidelines as listed in CFR 44, 60.0.

09.00 SPECIAL OVERLAY DISTRICTS

09.05 FLOODPLAIN-DISTRICT

.08 EXCEPTIONS, WAIVERS AND APPEALS, continued:

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 MGL Chapter 40A, elsewhere in the Zoning Bylaws and in the established administrative procedures of the cognizant Board, Commission or Official.

.09 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,

.10 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'.

.11 Interpretation:

Notwithstanding any other Town of Tisbury Bylaw, this Section 09.05 (Floodplain 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 (Floodplain District), 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.

09.00 SPECIAL OVERLAY DISTRICTS

09.05 FLOODPLAIN-DISTRICT

.12 Penalties:

Whosoever violates the provisions of this Section 09.05 (Floodplain 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 Art. 48; on April 6, 2010 – Acting on Art. 12; and on April 12, 2016 – Acting on Art. 16)

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.

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS

.01 Marine Districts:

DISTRICT	DESCRIPTION*
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)

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, continued

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: 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: The area West of the Main Channel.
MD-5D	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°27'-19.63", Longitude 70°35'-8.97", thence along said line to Lagoon pond Bridge.

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, continued

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.

(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.

CHANNEL	DESCRIPTION*
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:

09.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, continued

CHANNEL	DESCRIPTION*
	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
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.
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.

9.00 SPECIAL OVERLAY DISTRICTS

09.10 MARINE DISTRICTS AND DESIGNATED CHANNELS, continued

CHANNEL	DESCRIPTION*
	*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

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 quantity of drinking water for the residents, institutions, and businesses of the Town of Tisbury;
b. to preserve and protect existing and potential sources of drinking water supplies;
c. to conserve the natural resources of the town; and
d. 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 symbol B2).

9.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

02. SCOPE OF AUTHORITY, continued

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 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

9.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT
03. DEFINITIONS, continued

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 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

06. USE REGULATIONS

06.01 PERMITTED USES, continued

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.
i.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;
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;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

06. USE REGULATIONS

06.02 PROHIBITED USES, continued

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;
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;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

06. USE REGULATIONS

06.02 PROHIBITED USES, continued

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;

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

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, 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

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

06. USE REGULATIONS.

06.04 PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT, continued

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.

.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;

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

06. USE REGULATIONS.

06.04 PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT, continued

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.

.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

09.00 SPECIAL OVERLAY DISTRICTS

09.11 GROUNDWATER PROTECTION DISTRICT

06. USE REGULATIONS.

06.04 PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT, continued

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 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

09.00 SPECIAL OVERLAY DISTRICTS

09.12 WILD AND SCENIC NORTH SHORE DISTRICT
.02 DEFINITION, continued

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.

.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

09.00 SPECIAL OVERLAY DISTRICTS

09.12 WILD AND SCENIC NORTH SHORE DISTRICT
.04 USES BY SPECIAL PERMIT, continued

application shall be deemed a favorable recommendation. The Zoning Board of Appeals may also 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)

10.00 ADMINISTRATION

10.01 ENFORCEMENT:

.01 This Bylaw shall be administered by the Board of Selectmen and enforced by the designated Inspector of Buildings or person or Board (such as the Zoning Inspector) designated by the Board of Selectmen. He shall withhold a permit for construction, alteration or moving or any building or structure if the building or structure as constructed, altered or moved would be in violation of this Bylaw.

.02 No building permit shall be issued for construction within a subdivision approved under the Subdivision Control Law without a prior issuance of a Certificate of Performance from the Planning Board.

.03 The Inspector of Buildings shall initiate and take any and all action as may be necessary to enforce full compliance with any and all of the provisions of this Bylaw and of permits and variances issued thereunder, including notification of non-compliance and request for legal action through the Selectmen to the Town Counsel. If the Inspector of Buildings is requested in writing to enforce a Bylaw against any person allegedly in violation of the same Bylaw and declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

10.00 ADMINISTRATION

10.01 ENFORCEMENT (CONT.):

.04 Anyone violating any provision of the Bylaw, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals or the Planning Board, may be fined not more than $50 for each offense. Each day that such violation continues shall constitute a separate offense.

10.02 BOARD OF APPEALS

.01 There is hereby established a Board of Appeals which shall consist of five members, who shall be appointed by the Board of Selectmen and act in all matters under this Bylaw in the manner prescribed by Chapter 40A of the General Laws (Re: Chapter 808, the acts of 1975).

(Amend Part 10.02.01 by changes from 'two' to 'four' the number of associate members: May 2, 3 and 5, 1989 - Acting on Article 67)

Four associate members may be designated by the Selectmen of the Town of Tisbury to sit on the Board in case of absence, inability to act or conflict of interest on the part of a member thereof, or in the event of a vacancy on said Board.

.02 The Board of Appeals shall have and exercise all the powers granted to it by Chapter 40A of the General Laws (re: Chapter 808 of the Acts of 1975) and by this Bylaw. The powers of the Board of Appeals include:

- the power to hear and decide applications for Permits as authorized within this Bylaw. Permits shall be granted by the Board of Appeals only upon its written determination that the proposed use will not have adverse effects either the neighborhood or the Town, in view of the particular characteristics of the site. The determination shall indicate consideration of each of the following:

  - social, economic, and other community needs which are served by the proposal;
  - impact on traffic flow and safety;
  - adequacy of utilities and other public services;
  - impact on neighborhood visual character, including views and vistas, and on social structure;
  - impact on qualities of the environment, including surface and groundwater;
  - fiscal impact;

10.00 ADMINISTRATION

10.02 BOARD OF APPEALS (CONT.):

- the power to hear and decide petitions for Variances. Variances from the terms of this Bylaw may be authorized by the Board of Appeals with respect to a particular parcel of land or with respect to an existing building on such land, but only in cases where the Board finds 'all' of the following (also see definition of Variance in Section 02.00):

  - a literal enforcement of the provisions of this Bylaw would involve a substantial hardship, financial or otherwise, to the applicant;
  - there is hardship owing to conditions specifically affecting such parcel or such building, but not affecting generally the zoning district in which it is located;
  - desirable relief may be granted without either a substantial detriment to the public good, or substantial derogation from the intent or purpose of this Bylaw;
  - the power to hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by any of the following:

    - any person aggrieved by reason of his inability to obtain a building or construction permit from the Inspector of Buildings under the provisions of this Zoning Bylaw;
    - the Board of Selectmen or Inspector of Buildings;
    - any person aggrieved by any order or decision of the Inspector of Buildings or other administrative official in violation of any provision of Chapter 40A of the General Laws (re: Chapter 808 of the Acts of 1975), or this ByLaw.

.03 The Board of Appeals may require such information, including maps and drawings, as it deems necessary to adequately review the appeal, application or petition and to reach a decision.

.04 If an application to the Board of Appeals involves two (2) or more lots, the Board of Appeals shall require that a full set of development plans be sent to the Planning Board for review.

(Delete Section 10.02.05: April 29, 2014; and delete Section 10.02.06 on April 12, 2015 acting on Art. 15)

10.00 ADMINISTRATION

10.03 PERMITS, SPECIAL PERMITS AND VARIANCES:

.01 Permits, Special Permits and Variances are not granted as a matter of right; they are privileges which may be granted as appropriate in specific circumstances and which are in keeping with the intent of the Zoning Bylaw. It shall be incumbent upon applicants to demonstrate the appropriateness of their petitions for Permits, Special Permits and Variances.

.02 Permits and Special Permits shall only be issued following public hearings held within sixty-five (65) days after filing an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

.03 Validity Periods:

A Permit or Special Permit shall state a validity period whenever said permit(s) authorizes a severable use. The validity period shall not exceed two (2) years except as provided in Section 10.03.04.

In any event, permits for severable uses run to the owner/applicant only and validity ceases when there is any change in ownership of the lot, in permanent structures located thereon, or in the lessee(s), if said lessee(s) was the permit applicant.

Variances run to the land and are unaffected by changes in ownership, ways or the siting of permanent structures. Validity of a Variance shall terminate whenever the scope, and/or conditions, or the Variance are violated and whenever any Zoning Bylaw provision related to land conditions, ways or the siting of permanent structures, not waived or modified by the Variance, is violated.

.04 Extensions and Renewals:

Permits and Special Permits shall not have their validity periods extended, nor shall such permits be renewed unless:

- the permittee can show a specific period of delay due to natural causes; or,

- the Inspector of Buildings verifies that no top soil has been removed and/or excavation started; and,

10.00 ADMINISTRATION

10.03 PERMITS, SPECIAL PERMITS AND VARIANCES (CONT.):

- the extension or renewal of the validity period is less than half of the original permit validity period.

.05 The Planning Board shall issue decisions for Large-scale Ground-mounted Solar Photovoltaic Installations in the Business District II as specified in Section 05.21.05 of the Zoning By-law, within one (1) year from the date of initial application to the date of final approval/denial

(Adopted on April 15, 2011, acting on Article 14)

10.04 STANDARDS:

.01 Submittal Plans:

Except where the rules and regulations of the applicable Board specifically provide otherwise, the plan standards established by the Land Court rules for drawings, etc., shall be those required for plans referred to in the Bylaw.

Any plan, and/or supportive material, approved or endorsed under the Subdivision Control Law shall be the primary plan in any subsequent submittal to another Board.

.02 Definitions Regulating:

The definitions in Section 02.00, and elsewhere in this Bylaw, are explicit and determinative unless specifically generalized by such expressions as ‘usually’ or ‘typically’.

.03 Interpretation:

The Zoning Bylaws of the Town of Tisbury are to be interpreted restrictive and not permissive.

Where provision is made for the consideration of exceptions, the applicant has the burden of demonstrating exceptional arrangements and/or conditions sufficient in quantity and quality to merit the granting of an exception. Exceptions are classed as either Special Permits or Variances; variances have additional statutory requirements that must be met.

10.00 ADMINISTRATION

10.04 STANDARDS (CONT.):

.04 Application and Substantial Compliance:

In the application and enforcement of the Zoning Bylaws, substantial compliance is acquired when linear measurements are within less than one-half (1/2) a foot, area requirements within less than five (5) square feet, and volume requirements within less than less than one-half (1/2) of a cubic foot.

.05 Non-Conforming and Subsequent Compliance:

Subsequent to initially acquiring a legal 'non-conforming status', whether as 'pre-existing non-conforming' or non-conforming by the grant of an exception' (Special Permit or Variance), all subsequent uses and/or changes, including but not limited to the siting of structures or ways and any structural modification or extension, shall conform to the then current Zoning Bylaw standard (as opposed to exception criteria) unless a Special Permit or Variance shall grant otherwise.

10.05 PLANNING BOARD

.01 Planning Board Associate Member

In addition to members elected at Town elections or appointed to fill vacancies in accordance with Ch. 41, Sec. 81A, MGL, the Planning Board and Board of Selectmen by majority vote may appoint one (1) associate member to the Planning Board to serve for a term of five (5) years. The associate member may be designated by the Planning Board Chairman to sit on the Planning Board for the purpose of acting on a special permit application in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

(Adopted on March 25, 2003 – Acting on Article 16)

10.06 SITE PLAN REVIEW BOARD

.01 There is hereby established a Site Plan Review Board consisting of six (6) members. With the exception of the architect, landscape architect or designer, said members shall be Town residents and appointed for one (1) year. The Board will include:
- one (1) member of the Tisbury Historical Commission, appointed by the Chairman of said Commission;

10.00 ADMINISTRATION

10.06 SITE PLAN REVIEW BOARD (CONT.):

- one (1) member of the Planning Board, appointed by the Chairman of said Board;
- one (1) member of the Conservation Commission, appointed by the Chairman of said Commission;
- one (1) member of the Tisbury Board of Health, appointed by the Chairman of said Board;
- one (1) member of the Zoning Board of Appeals, appointed by the Chairman of said Board;
- one (1) architect, landscape architect or designer to be appointed by the Site Plan Review Board.

who shall act as an advisory body to all Permit and Special Permit granting authorities and to the Building Inspector and the Zoning Enforcement Officer in reviewing all applications for Permits, excluding applications for demolitions, and repairs, provided that they do not involve changes to the structure, design, texture or material; and/or Special Permits, excluding applications for swimming pools within the Coastal District, the Tisbury Island Road District and The Waterfront/Commercial District as required by sections, 09.01.07, 09.02.05 and 06.07 respectively.

Powers and Duties of the Site Plan Review Board shall include the following:

- To adopt, for the conduct of its business and to inform the public, rules and procedures consistent with the goals and objectives of this bylaw as they pertain to the Coastal District, the Tisbury Island Road District, and the Waterfront Commercial District. A copy of said rules and procedures shall be filed with the Tisbury Town Clerk.
- To conduct posted meetings with applicants or their appointed agent(s) and any other interested parties to review the information submitted by the applicant.
- To request advice from other Town Boards, as necessary.
- To report findings and recommendations in writing to the Board of Appeals, Planning Board, Building Inspector and the Zoning Enforcement -Officer by the date of a posted public hearing on said application or within twenty days of receiving a complete application for any permit not requiring a public hearing (e.g. sign permit, building permit).

.02 Complete applications for Permits and Special Permits within the Coastal District, the Tisbury Island Road District and the Waterfront/Commercial District, and for any permits or Special Permits referenced by future by-law amendments, must be submitted by the permit granting authority to the Site Plan Review Board no less than twenty-one (21) days prior to the date of any public hearing scheduled in regard to said application or before the issuance of such permit not requiring a public hearing. The Board of Appeals, the Planning Board, the Building Inspector or any other Permit

10.00 ADMINISTRATION

10.06 SITE PLAN REVIEW BOARD (CONT.):

Granting Authority shall require a written advisory report from the Site Plan Review Board in considering said applications.

Failure of the Site Plan Review Board to respond by the date of the public hearing, or within 20 days of the receipt of a complete application in the case of permits not requiring a public hearing, shall be construed as a recommendation of approval.

(Adopted on April 29, 2014 – Acting on Article 22; amended on April 25, 2017 – Acting on Article 13)

11.00 ADOPTION - EFFECTIVITY - AMENDMENT:

.01 The provision of the Zoning Bylaw, or an Amendment thereto, shall govern applications for Permits, Special Permits, building or construction permits, and Variances, from the date of publication of the first notice of public hearing for said Bylaw or Amendment; until six (6) months have elapsed or Town Meeting has acted thereon, whichever shall have occurred first.

.02 A Zoning Bylaw or Amendment thereto shall become effective upon adoption by a 2/3 vote of the Town Meeting.

.03 The Bylaw may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of Chapter 40A (re: Chapter 808 of the Acts of 1975).

(Amended Section 11.00: April 14, 15, and 22, 1992 - Acting on Article 43)

12.00 VALIDITY

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof.

This Amendment supersedes any Zoning Bylaw previously adopted by the Town of Tisbury.

13.00 APPENDICES:

13.01 SCHEDULE A - WITHIN RESIDENTIAL DISTRICTS

.01 Single Family:

Regulation	R10	R20	R25	R50	R3A
Minimum Lot Size - sq. ft.	10,000	20,000	25,000	50,000	---
Lot Size - acres	------	------	------	------	3
Minimum Frontage	80’	100’	125’	150’	200’
Minimum Lot Depth	80’	100’	125’	150’	200’
Principal Structure					
Front Setback (Minimum)	20’	20’	25’	50’	50’
Side Yard Setback (Minimum)	10’	15’	25’	35’	50’
Rear Yard Setback (Minimum)	20’	20’	25’	50’	50’
Height (Maximum)	35’	35’	35’	35’	35’
Detached Accessory Structure					
Front Setback (Minimum)	20’	20’	25’	50’	50’
Side & Rear Setback (Minimum)	5’	10’	25’	35’	50’

Note: (Also see requirements in applicable text [e.g. Accessory/ Subordinate/ Subsidiary Structures, Guest Houses, R3A District, Coastal and Tisbury Island Road Districts, etc.]).

13.00 APPENDICES:

13.01 SCHEDULE A - WITHIN RESIDENTIAL DISTRICTS

.02 Multi-unit:

Minimum frontage, depth and setbacks, and maximum heights, are the same as in Section 13.01. (Minimum lot size is the number of dwelling units multiplied by the minimum lot size set forth in Section 13.01; see Section 04.04.02).

13.02 SCHEDULE A - WITHIN BUSINESS I and II AND THE WATERFRONT/COMMERCIAL DISTRICT

.01 Commercial Uses:

Regulation	B1	B2	W/C
Minimum Lot Size - sq. ft.	0’	0’	0’
Minimum Frontage	0’	0’	20’
Minimum Lot Depth	0’	0’	0’
Principal Structure			
Front Setback (Minimum)	0’	30’	20’
Side Yard Setback (Minimum)	2’	15’	*
*Cummulative Side Setback (1)			20’/4’
Rear Yard Setback(1) (Minimum)	4’	15’	30’/50’
Height (Maximum)	35’	35’	28’
Detached Accessory Structure			
Front Setback (Minimum)	4’	30’	20’

13.00 APPENDICES:

13.02 SCHEDULE A - WITHIN BUSINESS I and II AND THE WATERFRONT/COMMERCIAL DISTRICT

.01 Commercial Uses, continued:

Detached Accessory Structure, continued

Side & Rear Setback (Minimum)	4’	20’	*
*Cummulative Side Setback (1)			20’/4’

(1) Note: Also see requirements in Section 06.00, Waterfront/Commercial District.

13.02 SCHEDULE A - WITHIN BUSINESS AND COMMERCIAL DISTRICTS

.02 Residential Uses:

Regulation	B1 & B2 Single-Family	B2 Multi-Unit	B1 & B2 Hotel/Motel
Minimum Lot Size - sq. ft	10,000	20,000*	30,000*
Minimum Frontage	80’	100’	100’
Minimum Lot Depth	80’	100’	150’
Principal Structure			
Front Setback (Minimum)	20’	30’	30’
Side Yard Setback (Minimum)	10’	20’	15’
Rear Yard Setback (Minimum)	20’	20’	20’
Height (Maximum)	35’	35’	35’

13.00 APPENDICES:

13.02 SCHEDULE A - WITHIN BUSINESS AND COMMERCIAL DISTRICTS

.02 Residential Uses, CONTINUED

Detached Accessory Structure

Front Setback (Minimum)	20’	30’	30’
Side & Rear Setback (Minimum)	5’	15’	20’

Note: *(In B2, all multi-units, including hotels and motels, require a lot size equal to the single family requirement (10,000) times the number of units. See Section 05.21.02)

13.03 SCHEDULE B - STATUTORY RESPONSE PERIODS: (and notice requirements)

.01 Board of Appeals:

Variances and Appeals

Public Hearing:
Within sixty-five (65) days of filing application.

Publication & Posting of Notice of Hearing:
Publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first at least fourteen (14) days prior to the hearing. And, positing in a conspicuous place in Town for at least fourteen (14) days prior to the hearing. In addition, certain parties are to receive notice by mail, see Chapter 40A, MGL.

Decision:
Within seventy-five (75) days of filing of applications

Permits:
Same as for Special Permits in 02) below.

.02 Planning Board:

Special Permits

13.00 APPENDICES:

13.03 SCHEDULE B - STATUTORY RESPONSE PERIODS: (and notice requirements)
.02 PLANNING BOARD, continued

Public Hearing:
As in 01) above.

Publication and Posting of Notice of Hearing:
As in 01) above.

Decision:
Within ninety (90) days after the public hearing.

*Including notice to 'parties of interest', the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line, and every abutting town, and all persons or legal entities known to have a direct financial interest in the property, and/or in the proposed construction or use of the property.

Notes:

(The above provides general information. Chapter 40A, MGL, as amended, should be consulted for specific and current requirements).

(Throughout this Bylaw reference to Permits [capitol 'P"] means the same as Special Permits as referred to in Chapter 40A, MGL).

13.04 Zoning Map Facsimiles:

Zoning maps, approximately one-half (1/2) size, may be purchased at the Planning Board office.

(Amend Section 13.02.01: April 30, 1997 - Acting on Article 11; Amend Section 13.01.02: April 10, 2018 – Acting on Article 14)