

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.
- .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.

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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;

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- 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;
- 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:

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- 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)

10.03 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.

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10.03 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.

Variations 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,

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

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10.04 STANDARDS:

.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.

.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.

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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;
- 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

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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

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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 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)