



Code of the Town of Edgartown  
County of Dukes  
Commonwealth of Massachusetts

Officials of the Town of Edgartown  
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2022

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## **PREFACE**

Around the year 1645, several English families with names like Norton, Pease, Trapp, Vincent and others, came to the island we know as Martha's Vineyard. They settled at a spot known to the Indians as Chappaquiddick. Their new town, Edgartown, named for an heir to the throne of England who died in infancy, was incorporated July 8, 1671. Its appearance today is little changed from that of 100 years ago, with narrow, winding, tree-lined streets, impressive old but well-kept homes (many of which were built by sailing men of another age), and the incredibly picturesque Edgartown Harbor. Mainly a summer resort community, the town maintains a large year-round population as well. Many have sought Edgartown's charms, including actor James Cagney, who kept a summer home along the Harbor for several years. Edgartown has fought hard to preserve its nostalgic image while trying to allow entry to the good things progress can bring. It's a tough balance to try for, but the town has been largely successful.

The Town of Edgartown has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Meeting and Board of Selectmen ordered the following codification of the town's legislation.

## **History**

General Code Publishers Corp was responsible for publishing the Original edition of the Code of the Town of Edgartown. Please click this link to see the original version of the Code.

## **Contents of the Code**

The various chapters of the Code legislation (Town meeting enactments) of a general and permanent nature enacted by the Town Meeting and Board of Selectmen, as well as certain rules, regulations and/or bylaws adopted by various boards, commissions, departments and/or agenda, which were deemed to be general and permanent in nature and appropriate for inclusion in this version.

These chapters are constantly being updated, therefore some areas may not be completely current and we recommend that you follow up with the appropriate town departments to verify whether or not the bylaw or regulations is current.

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# PART I

# ADMINISTRATIVE LEGISLATION

## Chapter 1

### GENERAL PROVISIONS

- 1-1. **General penalty.**
- 1-2. **Repealer.**
- 1-3. **Noncriminal disposition of offenses.**

**[HISTORY: Adopted 3-14-1967 Annual Town meeting, approved 6-8-1967. Amendments noted where applicable.]**

- 1-1. **General penalty.**  
Any person violating any of these bylaws shall be liable to a fine not to exceed fifty dollars (\$50.) for each offense.
- 1-2. **Repealer.**  
Upon approval of these bylaws by the Attorney General, all bylaws heretofore existing shall be ipso facto annulled and replaced by these bylaws which shall then take effect.
- 1-3. **Noncriminal disposition of offenses. [Added 10-2-1980 STM, Art. 17, approved 2-17-1981]**  
Any person taking cognizance of a violation of a specific bylaw, rule or regulation which he is empowered to enforce, the violation of which is subject to a specific penalty, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during office hours, not later than twenty-one (21) days after the date of such notice, to allow for the noncriminal disposition of such offenses in accordance with the provisions of MGL C. 40, 21D.



## Chapter 5

### AFFORDABLE HOUSING TRUST FUND (Adopted STM 12-9-08, Article 2, approved by A.G. 4/28/08 )

#### 5-1. Establishment.

##### EDGARTOWN AFFORDABLE HOUSING TRUST FUND

- (a) In accordance with Massachusetts General Laws Chapter 44 Section 55C, Edgartown hereby establishes a trust to be known as the Edgartown Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households in Edgartown.

Recognizing the unusually high disparity between median income and median housing costs in Dukes County, the trust may assist in providing housing for households of moderate income, including those whose household income is below 140% of the Area Mean Income for Dukes County as established annually by the U.S. Department of Housing and Urban Development.

#### 5-2. Membership.

- (b) There shall be a board of trustees, in this section called the board, which shall include 7 trustees, including one member of the Board of Selectmen, four members of the Edgartown Affordable Housing Committee, and two members at large. Trustees shall be appointed by the Board of Selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the Constitution of the Commonwealth;

#### 5.3. Responsibilities.

- (c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but the town may, by by-law approved at town meeting, omit or modify any of these powers and may grant to the board additional powers consistent with this section:
- (1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from 44B, with the concurrence of the Board of Selectmen;
  - (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income, with the concurrence of the Board of Selectmen;

- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract, with the concurrence of the Board of Selectmen;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust, with the concurrence of the Board of Selectmen;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary, with the concurrence of the Board of Selectmen;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable, with the concurrence of the Board of Selectmen;
- (7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise, with the concurrence of the Board of Selectmen;
- (8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person, with the concurrence of the Board of Selectmen;
- (9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate, with the concurrence of the Board of Selectmen;
- (10) to carry property for accounting purposes other than acquisition date values, with the concurrence of the Board of Selectmen;
- (11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral, with the concurrence of the Board of Selectmen and a Town Meeting vote;
- (12) to make distributions or divisions of principal in kind, with the concurrence of the Board of Selectmen;

- (13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate, with the concurrence of the Board of Selectmen;
- (14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining, with the concurrence of the Board of Selectmen;
- (15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate, with the concurrence of the Board of Selectmen; and
- (16) to extend the time for payment of any obligation to the trust, with the concurrence of the Board of Selectmen.

**5.4.1. Revenue.**

Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

**5.5.1. Regulations, accounting, annual report.**

- (d) The trust is a public employer and the members of the board are public employees for purposes of General Laws Chapter 258.
- (e) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of General Laws chapter 268A.
- (f) The trust is exempt from General Laws chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.
- (g) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.
- (h) The trust is a governmental body for purposes of sections 23 A, 23B and 23C of General Laws Chapter 39.
- (i) The trust is a board of the town for purposes of General Laws chapter 30B and 15A of General Laws Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

- (j) The trust shall keep a record of its doings and at the close of every fiscal year make a report thereof to the Board of Selectmen and Annual Town Meeting. The report shall include a description and source of funds received and expended and the type of affordable housing programs or properties assisted with the funding. The trust shall also provide the Board of Selectmen with a copy of the trust's annual audit.

## Chapter 6

### BYWAYS COMMITTEE

- 6-1. Purpose.
- 6-2. Membership, terms, qualifications and compensation.
- 6-3. Election of officers.
- 6-4. Duties.
- 6-5. Quorum.
- 6-6. Annual report.

[HISTORY: Adopted 4-9-1991 Annual Town Meeting, Art. 31, approved 2-4-1992. Amendments noted where applicable.]

#### GENERAL REFERENCES

Streets and sidewalks. – See Ch. 150.  
Vehicles and traffic. – See Ch. 188.

#### 6-1.1. Purpose.

The Board of Selectmen shall appoint a Byways Committee for the purpose of defining and providing management for a network of public and private special ways that will serve as a secondary means of travel throughout the town and the Island, especially for pedestrians and horses.

#### 6-2. Membership, terms, qualifications and compensation.

- A. This Board of Selectmen shall appoint the Byways Committee consisting of five (5) members.
- B. A term shall be no more than three (3) years.
- C. Members shall not serve more than two (2) consecutive terms, members may be reappointed after not serving for at least one (1) term and members shall work with the Planning Board and the Conservation Commission when so needed.
- D. All members shall serve without remuneration.

#### 6-3. Election of officers.

Members shall, from among the Committee, elect a Chairman who shall preside at all meetings and a Secretary who shall keep a permanent record of all proceedings.

#### 6-4. Duties.

The duties of the Byways Committee shall be as follows:

- A. To prepare and submit to the Selectmen for approval and implementation rules and regulations pertaining to the ancient ways and trails of the Island.
- B. To hold public meetings when necessary.
- C. To aid the Planning Board in determining where the byways are located and assisting in protection of the same.

**6-5. Quorum.**

There shall be in attendance three (3) members of the Byways Committee for an official meeting to take place.

**6-6. Annual report.**

The Byways Committee shall prepare and submit an annual report of its activities to the Board of Selectmen and the Town of Edgartown.

## Chapter 8

### CAPITAL PROGRAMS COMMITTEE

- 8-1. **Establishment; membership; terms; officers.**
- 8-2. **Duties and responsibilities.**
- 8-3. **Preparation of annual report.**
- 8-4. **Expenditures.**
- 8-5. **Publication and distribution of report.**

[HISTORY: Adopted 4-12-1977 Annual Town Meeting, Art. 20, approved 6-15-1977. Amendments noted where applicable.]

- 8-1. **Establishment; membership; terms; officers.**
  - A. A Committee to be known as the "Capital Programs Committee" shall be established, composed of one (1) member of the Financial Advisory Committee appointed by and from it, one (1) member of the Planning Board appointed by and from it and five (5) additional members to be appointed by the Board of Selectmen. **[Amended 4-11-1989 ATM, Art. 19, approved 6-22-1989]**
  - B. The members from the Advisory Committee and the Planning Board shall be appointed for one-year terms. The other members shall be appointed for four-year terms such that one (1) will expire each year.
  - C. The Town Accountant shall be an ex officio member without the right to vote.
  - D. A member who ceases to reside in the town shall resign.
  - E. A vacancy shall be filled for the unexpired term in the manner of the original appointment.
  - F. The Committee shall choose its own officers.
  
- 8-2. **Duties and responsibilities. [Amended 4-15-1988 ATM, Art. 19, approved 8-30-1988]**

The Committee shall study proposed capital outlays involving any acquisition of land or any expenditure in excess of twenty-five thousand dollars (\$25,000.) having a useful life of at least three (3) years. All officers, boards and committees, including the Selectmen and the School Committee, shall, by September 1 of each year, give to said Committee, on forms prepared by it, information concerning such projects anticipated by them as needing Town Meeting action during the ensuing six (6) years. The Committee shall consider the relative need, timing and costs of these expenditures and the effect each will have on the financial position of the town.
  
- 8-3. **Preparation of annual report.**

The Committee shall prepare an annual report containing the capital budget of such outlays for the first year for presentation to the Advisory Committee for inclusion in its report and also a capital program for the following five (5) years for adoption by the town at the Annual Meeting, with an explanation thereof. It may make investigations and hold such hearings as it may deem necessary.

**8-4. Expenditures.**

Such capital program, after its adoption, shall permit the expenditure on projects included therein on sums from departmental budgets for surveys, engineering advice, options or appraisals which may be expended for projects listed thereon, but no such expenditure shall be incurred on projects which have not been so approved by Town Meeting action. Such expenditures may also be made as to projects approved by the town through the appropriation of sums in the current or prior years and also for preliminary planning projects to be undertaken more than five (5) years thence.

**8.5.1. Publication and distribution of report.**

A report shall be published and distributed also with the Advisory Committee report. The Committee shall deposit the original with the Town Clerk.



## Chapter 11

### COMMUNITY PRESERVATION COMMITTEE (Adopted STM 10-15-05, Article 12, approved by A.G. 12/14/05)

#### 11-1. Establishment; members

There is hereby established a Community Preservation Committee, consisting of seven (7) voting members pursuant to M.G.L. Chapter 44B, the Massachusetts Community Preservation Act. The composition of the committee, the appointment authority and the term of office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Conservation Commission for a term of three years.

One member of the Planning Board as designated by the Planning Board for a term of three years.

One member of the Historic District Commission as designated by the Historic District Commission for an initial term of one year and thereafter for a term of three years.

One member of the Park Commission as designated by the Park Commission for an initial term of one year and thereafter for a term of three years.

One member of the Resident Homesite Committee as designated by the Resident Homesite Committee for an initial term of one year and thereafter for a term of three years.

One member of the Financial Advisory Committee as designated by the Financial Advisory Committee for an initial term of two years and thereafter for a term of three years.

One at-large member as designated by the Board of Selectmen for an initial term of two years and thereafter for a term of three years.

Each member of the Committee shall serve for the term as set forth above, or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the Commissions, Boards or Committees who have appointing authority under this Chapter be no longer in existence for what ever reason, the appointing authority for that Commission, Board, or Committee shall become the responsibility of the Board of Selectmen.

Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

#### 11-2. Duties.

(1). The community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing town boards, including the conservation commission, the historical commission, the planning board, the parks and recreation commission, the housing authority, the resident homesite committee, and the affordable housing

committee or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources. Notice of the meetings shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town,

(2). The community preservation committee shall make one or more recommendations at the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation and preservation of land for recreational use; for the acquisition, creation and preservation of land for natural resources and conservation purposes; for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3). The community preservation committee may include a recommendation at Town Meeting to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish those specific purposes or to set aside for later spending funds for general purposes that are consistent with community preservation.

(4). In every fiscal year, the community preservation committee must recommend either that the Town Meeting body spend, or set aside for later spending, not less than 30% of the annual revenues in the Community Preservation Fund consistent with the provisions in M.G.L. Chapter 44B Section 6. The Town Meeting shall make appropriations from the Fund as it deems necessary for the administrative and operating expenses of the community preservation committee up to, but not to exceed, five percent (5%) of the annual revenues in the Community Preservation Fund.

As provided by the Massachusetts Community Preservation Act, M.G.L Chapter 44B, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.

### **11-3. Requirement for a quorum and cost estimates**

The community preservation committee shall comply with the provisions of the Open Meeting Law, M.G.L. Chapter 39 Section 23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation committee, which shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

### **11-4. Amendments**

This Bylaw may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of M.G.L. Chapter 44B.

**11- 5. Severability**

In case any section, paragraph or part of this By-law is, for any reason, declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

**11-6. Effective Date**

Following Town Meeting approval, this Bylaw shall take effect immediately upon approval by the Attorney General of the Commonwealth, and after all requirements of M.G.L. Chapter 40 Section 32, have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments. Should any appointing authority fail to make their appointment within that allotted time, the current acting Chairman on each of the seven groups listed under the Establishment section, will sit on the Community Preservation Committee until another representative is appointed.

## Chapter 12

### COUNCIL ON AGING

- 12-1. Establishment; purpose.**
- 12-2. Membership; terms.**
- 12-3. Filling of vacancies.**
- 12-4. Annual report.**
- 12-5. Appointment of clerks and other employees.**

**[HISTORY: Adopted 3-9-71 Annual Town Meeting, Art. 32, approved 6-11-71. Amendments noted where applicable.]**

**12-1. Establishment; purpose.**

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with the programs of the Commission on Aging established under MGL C. 6, Sec. 73.

**12-2. Membership; terms. [Amended 3-14-72 ATM, Art. 20]**

The Board of Selectmen shall appoint the Council on Aging, consisting of five (5) to seven (7) members. Upon acceptance of this chapter, the Board shall appoint two (2) members for three (3) years, two (2) members for two (2) years and one (1) member for one (1) year. One (1) or two (2) other members may be appointed at the discretion of the Selectmen for one (1) year. Members can be reappointed and shall serve without pay.

**12-3. Filling of vacancies.**

Whenever a vacancy shall occur in the membership of the Council by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.

**12-4. Annual report.**

The Council shall prepare and submit an annual report of its activities to the town and shall send a copy thereof to the Commission on Aging.

**12-5. Appointment of clerks and other employees.**

The Council may appoint such clerks and other employees as it may require.

## Chapter 14

### COUNSEL, TOWN

**14-1. Appointment; salary.**

**[HISTORY: Adopted 3-7-22 Annual Town Meeting, approved 3-23-22. Amendments noted where applicable.]**

**14-1. Appointment; salary.**

The Board of Selectmen shall annually appoint an attorney at law to act as Town Counsel, who shall be paid such salary as the town may vote.

## Chapter 16

### EDGARTOWN PONDS AREA ADVISORY COMMITTEE

- 16-1. Appointment and purpose.
- 16-2. Membership.
- 16-3. Duties.
- 16-4. Termination.
- 16-5. Annual report.

[HISTORY: Adopted 4-10-1990 Annual Town Meeting, Art. 11, approved 6-29-1990. Amendments noted where applicable.]

#### GENERAL REFERENCES

Wetlands – See Ch. 169.  
Zoning – See. Ch. 175.  
Subdivision of land – See Ch. 202.

#### 16-1. Appointment and purpose.

The Board of Selectmen shall appoint an Edgartown Ponds Area Advisory Committee for the purpose of advising Town boards, commissions, committees or departments with respect to the use and management of uplands, wetlands and surface waters within the Edgartown Ponds Area District as set forth in 175-79.3B of the Zoning Chapter and assist in carrying out programs designed to meet the needs of the commercial shellfishing industry and the family shellfish program of the Town of Edgartown.

#### 16-2. Membership.

- A. The Board of Selectmen shall appoint the Edgartown Ponds Area Advisory Committee consisting of 12 members. **[Amended 4-8-1997 ATM, Art. 25]**
- B. Initially, the Board shall appoint four members for three years, four members for two years and three members for one year.
- C. Representation.
  - (1) One member shall be recommended to represent the Marine Advisory Committee, one to represent the Planning Board, one to represent the Conservation Commission, one to represent the Board of Health, one to represent the Shellfish Committee and one to represent the Wastewater Commission. **[Amended 4-8-1997 ATM, Art. 25]**
  - (2) Of the other six members, four shall represent the interests of riparian owners and property owners whose interests and properties are located in the Edgartown Ponds Area District, one shall represent the interests of commercial shellfishermen and the remaining member shall represent the interests of conservation groups.
- D. All members shall serve without remuneration.

- E. Members shall, from among the Advisory Committee, elect three officers: a Chairman who shall preside at meetings; a Vice Chairman who shall act in place of the Chairman and keep a permanent record of any financial transactions; and a Secretary who shall keep a permanent record of all proceedings.
- F. Whenever a vacancy shall occur in the membership of the Committee for any reason, the vacancy shall be filled by appointment of the Selectmen with the advice of the Advisory Committee for the remainder of the term.

**16-3. Duties.**

The duties of the Edgartown Ponds Area Advisory Committee shall be as follows:

- A. Study, design or coordinate plans or projects as directed by the Marine Advisory Committee, Planning Board, Conservation Commission, Board of Health and the Shellfish Committee.
- B. When requested by the boards and committees listed in Subsection A above:
  - (1) Review all new development projects within the Edgartown Ponds Area District, including those which qualify as developments of regional impact; and
  - (2) Comment to the appropriate permitting authorities regarding whether the development is designed to preserve sensitive resource areas within the District.
- C. When requested by the boards and committees above, hold public meetings for the purpose of informing the residents of the Town as to plans or projects proposed by the Advisory Committee.
- D. When requested by the boards and committees above, obtain data and opinions with respect to such matters under study or consideration by the Advisory Committee.
- E. When requested by the boards and committees above, develop guidelines for publication and distribution of a pamphlet to Edgartown Ponds Area District property owners encouraging practices designed to preserve sensitive resources within the District.
- F. When requested by the boards and committees above, develop a list of and assign priorities to tasks to be undertaken by the Advisory Committee. The tasks include issues to be investigated and studied to the fullest capacity of the Committee. Once the study of an issue is complete, the Committee shall prepare recommendations or proposals which may include changes in or the creation of regulations, bylaws or management procedures or may include the recommendation for funds for further studies or for the implementation of management proposals. These recommendations or proposals shall be presented to the appropriate Town board, department or commission for review.
- G. Function as a Site Review Committee for the Conservation Commission as contained in Commission regulation 1.08B(11).

The Site Review Committee shall also include one architect and one builder familiar with construction on the Island.

The Committee's finding shall be forwarded to the Conservation Commission in the form of an advisory report.

Guidelines for consideration of said findings which include, but are not limited to: size of lot; how far back from zone one the structure is located; permanent deed restrictions in place; number of linear feet of structure exposed to the public vista; style of the structure; orientation of the structure to the public vista; canopy and other surrounding vegetation; topography; proposed alterations to the landscape; plans for pool, tennis court, outbuildings; lighting.

**16-4. Termination.**

Unless extended by a vote of the Town Meeting, the duties of the Edgartown Ponds Area Advisory Committee shall cease five years after the acceptance date of this chapter.<sup>1</sup>

**16-5. Annual Report.**

The Edgartown Ponds Area Advisory Committee shall prepare and submit an annual report of its activities to the Board of Selectmen, Marine Advisory Committee, Planning Board, Conservation Commission, Board of Health, Shellfish Committee and the Town of Edgartown. A copy of such annual report shall be distributed to every owner of property located within the Edgartown Ponds Area District.

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<sup>1</sup> Editor's Note: The Town voted 4-11-2000 ATM, Art. 63, to extend the life of the Edgartown Ponds Area Advisory Committee for an additional 10 years.



## Chapter 18

### ELECTIONS

#### **18-1. Hours of registration.**

**[HISTORY: Adopted 4-13-76 Annual Town Meeting, Art. 30, approved 8-12-76. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Town Meetings – See Ch. 55.

#### **18-1. Hours of registration.**

The hours of registration for the last session preceding the biennial state election, state primary and the Annual Town Meeting shall be from 9:00 a.m. until 10:00 p.m.

**Chapter 21**

**FINANCES**

**ARTICLE I  
Contracts**

**21-1. Personal interest prohibited.**

**ARTICLE II  
Annual Audit**

**21-2. Audit requirement; report to be made.**

**ARTICLE III  
Disposition of License Fees**

**21-3. Moneys to be paid over to Town Treasurer.**

**21-4. Fees to become part of town's estimated receipts.**

**ARTICLE IV  
Disposition of Collector of Taxes Fees**

**21-5. Deposit into general fund.**

**[HISTORY: Art. I, adopted 3-7-22 Annual Town Meeting, approved 3-23-22; Art. II, adopted 2-23-26 Annual Town Meeting, approved 3-15-26; Art. III, adopted 10-1-81 Special Town Meeting, Art. 12, approved 1-11-82; Art. IV, adopted 4-9-85 Annual Town Meeting, Art. 17, approved 8-27-85. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Tax Collector – See Ch. 39, Art. VII.  
Dogs and other animals – See Ch. 88.

ARTICLE V  
**PROPERTY TAX INTEREST RATE ON SENIORS**

Art. 23 04-09-2021 Annual Town Meeting, Town voted to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under G.L. c 59, s. 5, Clause 41 (A) from eight percent to two percent, with such reduced rate to apply to taxes assessed for any Fiscal Year beginning on or after July 1, 2019.

ARTICLE VI  
**PROPERTY TAX INTEREST RATE ON SENIORS**

Art. 24 04-09-2021 Annual Town Meeting, Town voted increase the gross receipts that seniors may have in prior calendar year to be eligible to defer property taxes under G.L. c 59, s. 5, Clause 41 (A) from \$20,000.00 to \$40,000.00 with such increases to be effective for deferrals granted for taxes assessed for any for any Fiscal Year beginning on (or after) July 1, 2019.ARTICLE I

ARTICLE VII  
**DISPOSING OF ABANDONED FUNDS**

**Art. 8 06-13-2020 Special Town Meeting**, Town voted to accept the provisions of Section 9A of Chapter 200A of the Massachusetts General Laws, as amended by Section 65 of Chapter 188 of the Acts of 2010, which provides an alternate and simplified procedure for disposing of abandoned funds(often referred to as unclaimed checks or “tailings”) held by the Town.

**Contracts**  
**[Adopted 3-7-22 ATM, approved 3-23-22]**

**21-1. Personal interest prohibited.**

Except as a result of competitive bidding, no officer or board of the town shall make any contract on behalf of the town in which such officer or member of such board is directly or indirectly financially interested.

ARTICLE II  
**Annual Audit**  
**[Adopted 2-23-26 ATM, approved 3-15-26]**

**21-2. Audit requirement; report to be made.**

There shall be an annual audit of the accounts of the town by the Director of Accounts in the Department of Corporations and Taxation of the Commonwealth of Massachusetts at the close of the financial year of the town, and, upon the completion of such audit, the Director shall report fully and completely thereon as provided by law.

ARTICLE III

**Disposition of License Fees**

**[Adopted 10-1-81 STM, Art. 12, approved 1-11-82]**

**21-3. Moneys to be paid over to Town Treasurer.**

Town Clerk shall, within ten (10) days after the last day of each month, pay over to the Town Treasurer all fees collected, with the exception of fees collected for the issuance of dog licenses and fish and game licenses.

**21-4. Fees to become part of town's estimated receipts.**

Money paid over to the Town Treasurer under Sec. 21-3 shall become a part of the estimated receipts of the town.

ARTICLE IV

**Disposition of Collector of Taxes Fees**

**[Adopted 4-9-85 ATM, Art. 17, approved 8-27-85]**

**21-5. Deposit into general fund.**

All interest charges and fees collected by the Collector of Taxes under MGL C. 60, Sec. 15 shall be paid over by the Collector to the Town Treasurer and deposited to the general fund and such charges and fees shall not be reimbursed or credited to the Collector.

**Chapter 23**

**FINANCIAL ADVISORY COMMITTEE**

**23-1. Establishment; composition; terms.**

**23-2. Filling of vacancies.**

**23-3. Organization.**

**23-4. Duties and responsibilities.**

**[HISTORY: Adopted 3-12-1974 Annual Town Meeting, Art. 28, approved 6-18-1974. Amendments noted where applicable.]**

GENERAL REFERENCES

Finances – See Ch. 21.

**23-1. Establishment; composition; terms. [Amended 4-8-1986 ATM, Art. 25, approved 5-30-1986; 6-22-1987 STM, Art. 15<sup>2</sup>; 6-7-1994 STM, Art. 2, approved 9-13-1994]**

There shall be a Financial Advisory Committee consisting of seven (7) citizens of the town, other than town officers, appointed or elect. The alternate member shall be jointly appointed by the Financial Advisory Committee and the Board of Selectmen. Each term shall be for a period of three (3) years.

**23-2. Filling of vacancies.**

In the event of any vacancy in its membership, the Financial Advisory Committee shall immediately notify the Board of Selectmen, in writing, and it shall jointly fill such vacancy.

**23-3. Organization.**

The Financial Advisory Committee shall convene within fourteen (14) days after the close of the Annual Town Meeting and shall organize by the election from their number of a Chairman and Secretary to serve for one (1) year and until their successor or successors shall be elected and qualified. For the purpose of organization, the Town Clerk shall notify the members of the Financial Advisory Committee to meet at a time and place stated in such notice, and he shall act as a Temporary Chairman until a Chairman is chosen. The Financial Advisory Committee may fill any vacancies existing in the offices of Chairman or Secretary.

**23-4. Duties and responsibilities.**

The Financial Advisory Committee shall consider all matters of business included within the Articles of any warrant for a Town Meeting and shall, after due consideration, report thereon in print its recommendations as to each Article.

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<sup>2</sup> Editor's Note: This bylaw was deemed approved ninety (90) days after adoption due to lack of action by the Attorney General, pursuant to MGL C. 40, Sec. 32.

## Chapter 26

### HISTORIC ADVISORY COMMITTEE

- 26-1. Establishment; membership.
- 26-2. General powers and authorities.
- 26-3. Terms; filling of vacancies.
- 26-4. Duties and responsibilities.
- 26-5. Maintenance of records.
- 26-6. Consultations with interested parties.
- 26-7. Furnishing of plaques.
- 26-8. Review of proposed modifications.
- 26-9. Annual reports.
- 26-10. Authority to enter into contracts.

[HISTORY: Adopted 4-11-78 Annual Town Meeting, Art. 6<sup>3</sup>, approved 9-5-78. Amendments noted where applicable.]

**26-1. Establishment; membership.**

There is hereby established in the Town of Edgartown an Historic Advisory Committee consisting of seven (7) unpaid members, at least five (5) of whom shall be taxpayers or residents of the Town of Edgartown and who shall be appointed by the Selectmen.

**26-2. General powers and authorities.**

The Committee shall have the power and authority to perform all of the duties as hereinafter enumerated and provided.

**26-3. Terms; filling of vacancies.**

The original appointment of the members of the Committee shall be two (2) for one (1) year; two (2) for two (2) years and three (3) for three (3) years. Vacancies occurring other than by expiration of term of office shall also be filled by appointment by the Selectmen, but such appointment shall be only for the unexpired portion of the term of the member replaced.

**26-4. Duties and responsibilities.**

The Committee shall investigate and determine the extent of areas and location and identity of structures and objects in the Town of Edgartown which are of artistic and historic value and, upon

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<sup>3</sup> Editor's Note: The preamble of this bylaw reads as follows: "The purpose of this Act is to promote the general welfare of the inhabitants of the Town of Edgartown through the preservation and protection of districts, buildings and objects of artistic and historic value and interest, which are important to the continued beauty and economic health of the town."

approval by the property owners and Selectmen, shall take steps to register such areas, structures and objects with the Massachusetts Historical Commission and in the National Register.

**26-5. Maintenance of records.**

The Committee shall maintain records of its investigations concerning the history of individual structures and objects and shall make such records available for inspection by their current owners or other interested persons.

**26-6. Consultations with interested parties.**

Members of the Committee shall be available for consultation with the Selectmen, with persons desirous of building new or remodeling old structures and shall make available to owners information concerning the benefits to be derived from the federal and state statutes relative to registered areas and structures.

**26-7. Furnishing of plaques.**

The Committee is authorized to obtain and furnish a small standardized plaque identifying the registered structure to which it shall be attached. Each plaque shall contain the name of the first identifiable owner and the year of original construction.

**26-8. Review of proposed modifications.**

The Committee may review any proposed structural or decorative modifications to a registered building or to a building located in a registered area and advise with owners or with any town official concerning the desirability of such modification.

**26-9. Annual reports.**

The Committee shall file an annual report to be printed in the Annual Town Report.

**26-10. Authority to enter into contracts.**

With the approval of the Selectmen, the Committee may enter into contracts with individuals, organizations and institutions for the obtaining of services or supplies or to engage in cooperative efforts furthering the objectives of the Committee's program.

## Chapter 35

### MARINE ADVISORY COMMITTEE

- 35-1. **Appointment; purpose.**
- 35-2. **Membership; terms; compensation.**
- 35-3. **Election of officers.**
- 35-4. **Duties.**

[HISTORY: Adopted 4-9-85 Annual Town Meeting, Art. 19, approved 8-27-85. Amendments noted where applicable.]

**35-1. Appointment; purpose.**

The Board of Selectmen shall appoint a Marine Advisory Committee for the purpose of advising the Board of Selectmen with respect to the use, operation and regulation of all marine resources within the Town of Edgartown, including but not limited to its harbor and harbor facilities.

**35-2. Membership; terms; compensation.**

- A. The Marine Advisory Committee shall consist of three (3) members **(and (1) alternate amended 05-22-2021 Annual Town Meeting)** appointed by the Board of Selectmen and the Edgartown Harbor Master, ex officio.
- B. Upon acceptance of this chapter, the Selectmen shall appoint one (1) member for three (3) years, one (1) member for two (2) years and one (1) member for one (1) year. All subsequent appointments, except those to fill an unexpired term, shall be for three (3) years. The Selectmen shall fill a vacancy in an unexpired term for the remainder of the term only.
- C. Members shall serve without remuneration.

**35-3. Election of Officers.**

Members shall, from among the Committee, elect a Chairman who shall preside at all meetings and a Secretary who shall keep a permanent record of all proceedings.

**35-4. Duties.**

The duties of the Marine Advisory Committee shall be:

- A. To prepare and submit to the Selectmen for approval and implementation, with the help and advice of the Harbor Master, rules and regulations pertaining to the use and operation of the marine resources within the town insofar as such regulating is not prohibited or preempted by the legal authority of other boards, committees or agencies of the town or other governmental authority to so rule and regulate.
- B. To study, design, create, coordinate and carry out, with the assent and approval of the Selectmen, comprehensive and/or specific programs and plans for the greater utilization and enjoyment of the marine resources within the town by its inhabitants and others for the general enhancement and benefit of the town.



- C. To hold public meetings for the purpose of informing the inhabitants of the town of the plans and programs proposed by the Committee and to obtain information and opinions with respect to such matters under study and consideration by the Committee and to receive recommendations as to other matter for consideration.
- D. To prepare and submit to the Selectmen recommendations and proposals resulting from the study of the Committee and the information and opinions of the inhabitants of the town.
- E. To advise and support the office of the Harbor Master in the carrying out and implementation of its duties.
- F. To prepare and submit an annual budget for the Marine Advisory Committee.
- G. To prepare and submit an annual report of its activities to the Board of Selectmen and the Town of Edgartown.

**Chapter 39**

**OFFICERS AND EMPLOYEES**

**ARTICLE I  
Town Treasurer**

**39-1. Required office hours.**

**ARTICLE II  
Inspector of Wires**

**39-2. Appointment authorized.**

**ARTICLE III  
Town Clerk**

**39-3. Required office hours.**

**39-4. Lengthening of term.**

**39-4.5 Appointment of Town Clerk.**

The Board of Selectmen shall appoint the Town Clerk

**39-4.6 Closed on Saturdays**

**ARTICLE IV  
Harbor Master**

**39-5. Annual rules and regulations.**

**39-6. Refusal to obey rules and regulations.**

**ARTICLE V  
Assessor**

**39-7. Selectmen not to hold office.**

**ARTICLE VI  
Town Accountant**

**39-8. Appointment; required office hours.**

ARTICLE VII  
**Tax Collector**

**39-9. Required number of office hours.**

ARTICLE VIII  
**Town Moderator**

**39-10. Term increased.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

ARTICLE I  
**Town Treasurer<sup>4</sup>**

**[Adopted 2-10-1959 ATM, approved 3-9-1959]**

**39-1. Required office hours.**

The Town Treasurer shall be in attendance at the Treasurer's office and hold public office hours for not fewer than four consecutive hours between 8:00 a.m. and 5:00 p.m. daily, Monday through Friday, holidays excepted.

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<sup>4</sup> Editor's Note: With 4-13-1999 ATM, Art. 10, and 4-11-2000 ATM, Art. 10, the Town voted to have the elected Town Treasurer become an appointed Town Treasurer.

**Chapter 39**

**OFFICERS AND EMPLOYERS**

ARTICLE I

**Town Treasurer**

~~21-1. — Required office hours.~~

ARTICLE II

**Inspector of Wires**

~~21-2. — Appointment authorized.~~

ARTICLE III

**Town Clerk**

~~21-3. — Required office hours.~~

~~21-4. — Lengthening of term.~~

ARTICLE IV

**Harbor Master**

~~21-5. — Annual rules and regulations.~~

~~21-6. — Refusal to obey rules and regulations.~~

ARTICLE V

**Assessor**

~~21-7. — Selectmen not to hold office.~~

*Kept page for history*

ARTICLE VIII

**Town Moderator**

39-2. Term increased.

[HISTORY: Art. I, adopted 2-10-59 Annual Town Meeting, approved 3-9-59; Art. II, adopted 3-9-65 Annual Town Meeting, Art. 11, approved 3-9-65; Art. III, adopted 3-10-70 Annual Town Meeting, Art. 8, approved 4-3-70 and 3-14-72 Annual Town Meeting, Art. 21; Art. IV, adopted 3-9-71 Annual Town Meeting, Art. 30, approved 6-11-71; Art. V, adopted 3-12-74 Annual Town Meeting, Art. 52, approved 5-30-74; Art. VI, adopted 8-20-74 Special Town Meeting, Art. I, approved 10-1-74; Art. VII, adopted 4-12-83 Annual Town Meeting, Art. 43, approved 8-25-83; Art. VIII, adopted 6-26-86 Special Town Meeting, Art. 3. Amendments noted where applicable.]

ARTICLE I

**Town Treasurer**

**~~{Adopted 2-10-59 ATM, approved 3-9-59}~~**

**~~21-8. Required office hours.~~**

~~The Town Treasurer shall be in attendance at the Treasurer's office and hold public office hours for not fewer than four (4) consecutive hours between 8:00 a.m. and 5:00 p.m. daily, Monday through Friday, holidays excepted.~~

ARTICLE II  
**Inspector of Wires**  
[Adopted 3-9-65 ATM, Art. 11, approved 3-9-65]

**39-2. Appointment authorized.**

The Board of Selectmen shall appoint an Inspector of Wires in accordance with the provisions of MGL C. 166, Sec. 32.

ARTICLE III  
**Town Clerk**  
[Adopted 3-10-70 ATM, Art. 8, approved 4-3-70 and 3-14-72 ATM, Art. 21]

**39-3. Required office hours.**

The Town Clerk shall be in attendance at the Town Clerk's office and hold public office hours for not fewer than seven (7) hours between 8:00 a.m. and 5:00 p.m. daily, Monday through Friday, holidays and vacations excepted.

**39-4. Lengthening of term.**

It was voted to increase the term of office of the Town Clerk from one (1) year to three (3) years, effective 1973.

**39-4.5 Appointment of Town Clerk**

The Board of Selectmen shall appoint the Town Clerk.

**39-4.6 Closed on Saturdays**

In accordance with G.L. Chapter 41, §110A, to authorize the Town Clerk's office to remain closed on all Saturdays and to treat Saturdays as a legal holiday for purposes of calculating the time frame for filing matters in that office or take any action relative thereto.

**(Adopted 4/12/2022 ATM, Art.73, Approved 08-01-2022 AG)**

ARTICLE IV  
**Harbor Master**  
[Adopted 3-9-71 ATM, Art. 30, approved 6-11-71]

**39-5. Annual rules and regulations.**

The Harbor Master shall annually make reasonable and necessary rules and regulations as authorized by Massachusetts General Laws, Ter. Ed., Chapter 102, for the use, operation, mooring and docking of boats in the harbors of the Town of Edgartown and shall provide for fines for

violation thereof not to exceed fifty dollars (\$50.). Said fines shall be paid to the Town Treasurer. The rules and regulations shall be published prior to their effective date in a newspaper having general circulation within said town at least twice and shall be posted in not fewer than three (3) conspicuous places.

**39-6. Refusal to obey rules and regulations.**

Any person refusing or neglecting to obey the lawful orders of the Harbor Master or pay the fine imposed by such rules and regulations may be prosecuted in the District Court in accordance with MGL C. 102, Sec. 28.

ARTICLE V

**Assessor**

**[Adopted 3-12-74 ATM, Art. 52, approved 5-30-74]**

**39-7. Selectmen not to hold office.**

No person elected Selectman on or after April 1, 1974, shall hold the office of Assessor during his term of office.

ARTICLE VI

**Town Accountant**

**[Adopted 8-20-74 STM, Art. 1, approved 10-1-74]**

**39-8. Appointment; required office hours.**

The Selectmen shall appoint a Town Accountant, who shall be in attendance at the Accountant's office for not fewer than four (4) consecutive hours, between 8:00 a.m. and 5:00 p.m. daily, Monday through Friday, holidays excepted.

ARTICLE VII

**Tax Collector**

**[Adopted 4-12-83 ATM, Art. 43, approved 8-25-83]**

**39-9. Required number of office hours.**

The Tax Collector shall be in attendance at the Tax Collector's office and hold public office hours for not fewer than twenty (20) hours per week, holidays excepted.

**Appointment of Tax Collector**

The Board of Selectmen shall appoint the Tax Collector. (Voted 05-22-2021 Annual Town Meeting and 05-25-2021 Annual Town Election)

ARTICLE VIII

**Town Moderator**  
**[Adopted 6-26-86 STM, Art. 3]**

**39-10. Term increased.**

The town voted to increase the elected term of the Town Moderator from one (1) year to three (3) years.



## **Chapter 43**

### **PERSONNEL POLICIES**

**[The Town of Edgartown has a current Personnel Bylaw in effect. Copies of said bylaw, along with any amendments, are kept on file in the office of the Town Clerk for review by the public.]**

## Chapter 45

### PLANNING BOARD

- 45-1. Establishment; powers and duties.**
- 45-2. Nonacceptance of Subdivision Control Law.**
- 45-3. Appointment; terms.**

**[HISTORY: Adopted 3-14-67 Annual Town Meeting, Art. 15. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning – See Ch. 175.  
Subdivision of land – See Ch. 202.

**45-1. Establishment; powers and duties.**

There is established a Planning Board of five (5) members under the provisions of MGL C. 41, Sec. 81A, with all the powers and duties thereof.

**45-2. Nonacceptance of Subdivision Control Law.**

(Note: This section is being reviewed and may be out of date. For current regulations we refer you to The Rules and Regulations Governing the Subdivision of Land in Edgartown, adopted in 1973, and as amended - <http://www.edgartown-ma.us/Section 3 - 2018 - Rules and Regulations Governing the Subdivision of Land in Edgartown.pdf>)

**45-3. Appointment; terms.**

The five (5) members shall be appointed by the Selectmen: one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years and thereafter in accordance with the provisions of statute.

## Chapter 46

### POLICE DEPARTMENT

**46-1. Enforcement of Park Department regulations.**

**[HISTORY: Adopted 4-15-1988 Annual Town Meeting, Art. 41, approved 8-30-1988. Amendments noted where applicable.]**

**46-1. Enforcement of Park Department regulations.**

The Edgartown Police Department shall have the authority to enforce Park Department regulations on all property under the Park Department's jurisdiction (MGL C. 45, Sec. 5).

## Chapter 47

### PROPERTY, SALE OF

#### 47-1. Authorization.

[HISTORY: Adopted 2-13-34 Annual Town Meeting, approved 2-21-34. Amendments noted where applicable.]

#### 47-1. Authorization.

All land held by the town after foreclosure of a tax title or tax titles pursuant to the provisions of MGL C. 60, Sec. 64 to 78, inclusive, and held for municipal purposes pursuant by law may be sold by the Town Treasurer after approval by the Selectmen upon such terms as such the Treasurer may deem best for the interest of the town, and said Treasurer is hereby authorized to execute, acknowledge and deliver any deed or deeds, release or releases necessary for the purpose herein set forth.

## Chapter 50

### SEWER COMMISSION

**50-1. Establishment; powers and duties.**

**50-2. Election of members; terms.**

**[HISTORY: Adopted 9-27-1967 Special Town Meeting, Art. 13. Amendments noted where applicable.]**

**50-1. Establishment; powers and duties.**

There is established a Sewer Commission<sup>5</sup> of three (3) members under the provisions of MGL C. 41, Sec. 63, with all the powers and duties thereof.

**50-2. Election of members; terms.**

The three (3) members shall be elected at the next annual election held in March 1968: one (1) for a term of (1) year, one (1) for a term of two (2) years and one (1) for a term of three (3) years, and at each annual election thereafter it shall elect one (1) for three (3) years.

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<sup>5</sup> Editor's Note: Article 51, 4-15-1988 ATM, provided as follows: "Moved that the town vote to change the name of the Edgartown Sewer Commission to the Edgartown Wastewater Commission."

## Chapter 52

### SHELLFISH COMMITTEE

- 52-1. Appointment; purpose.**
- 52-2. Membership; terms; qualifications; compensation. (Amended & Approved STM 10-27-09)**
- 52-3. Filling of vacancies.**
- 52-4. Duties. (Amended & Approved STM 10-27-09)**
- 52-5. Annual Report.**

[HISTORY: Adopted 4-12-77 Annual Town Meeting, Art. 19, approved 6-15-77. Amendments noted where applicable.]

- 52-1. Appointment; purpose.**

The Board of Selectmen shall appoint a Shellfish Committee for the purpose of coordinating and carrying out programs designed to meet the needs of the commercial shellfishing industry and the family shellfish program of the Town of Edgartown.
- 52-2. Membership; terms; qualifications; compensation.**
  - A. The Board of Selectmen shall appoint the Shellfish Committee consisting of five (5) members.
  - B. Upon acceptance of this chapter, the Board shall appoint two (2) members for three (3) years, two (2) members for two (2) years, and one (1) member for one (1) year. All subsequent appointments shall be three (3) year terms.
  - C. At least Two (2) members of the Committee shall be commercial fishermen; one (1) of these two (2) members shall be actively engaged in the shell fishing industry. At least one (1) member shall be engaged in the Aquaculture Industry in the Town Edgartown. The other two (2) members shall preferably be family permit holders. All members shall be permanent adult residents of the Town of Edgartown. Members shall not serve more than four (4) consecutive terms. Members may be reappointed after not serving for at least one (1) term.
  - D. All members shall serve without remuneration.
- 52-3. Filling of vacancies.**

Whenever a vacancy shall occur in the membership of the Committee for any reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.
- 52-4. Duties.**

The duties of the Shellfish Committee shall be as follows.

  - A. To prepare and submit to the Selectmen for approval and implementation any rules and regulations pertaining to the shell fishing industry.

- B. To prepare and submit the annual shellfish budget (includes wardens' salaries, protection and propagation programs).
- C. To hold public meetings to obtain information and opinions of the Edgartown shellfishes and the townspeople concerning the shellfish industry.
- D. To prepare and submit to the Selectmen recommendations based on Subsection C above.
- E. To coordinate and direct the activities of the Marine Biologist, including participation in and approval of the Biologist's budget.
- F. To monitor all shellfish program expenditures.
- G. To screen and submit to the Selectmen for approval/disapproval all applications for commercial shellfish licenses.
- H. To plan and execute in coordination with the Marine Biologist research programs for Oyster Pond.
- I. To make recommendations to the Selectmen on opening Great Pond to the sea

**52-5. Annual report.**

The Shellfish Committee shall prepare and submit an annual report of its activities to the Board of Selectmen and the Town of Edgartown.

## Chapter 55

### TOWN MEETINGS

- 55-1. **Time to be held.**
- 55-2. **Articles to be acted upon.**
- 55-3. **Annual election.**
- 55-4. **Filing of Articles to be acted upon.**
- 55-5. **Posting of warrants.**
- 55-6. **Adjournment not to affect elections.**
- 55-7. **Quorum requirements.**

**[HISTORY: Adopted as Ch. I of the 1983 compilation of bylaws; amended in its entirety 8-20-74 Special Town Meeting, Art. 16, approved 10-1-74. Subsequent amendments noted where applicable.]**

- 55-1. **Time to be held.**  
The Annual Town Meeting shall be held on the second Tuesday of April at such time and place as the Selectmen shall determine.
- 55-2. **Articles to be acted upon.**  
At the Annual Town Meeting on said second Tuesday of April, Articles of the warrant shall be acted upon, except that Article which provides for the election of town officers as provided by law.
- 55-3. **Annual election.**  
On the Thursday following the second Tuesday of April, there shall be an election of town officers by official ballot, the polls to be opened and closed at such times as the Selectmen shall determine, consistent with the statute in such case made and provided.
- 55-4. **Filing of Articles to be acted upon.**  
All Articles or subjects to be acted upon at the Annual Town Meeting to be held on the second Tuesday of April shall be filed with the Selectmen on or before the first Tuesday of the January preceding said second Tuesday of April when the warrant shall be closed.
- 55-5. **Posting of warrants.**  
All warrants for the Town Meeting shall be published in the Vineyard Gazette or posted in six (6) or more conspicuous places in the town at least seven (7) days before the date of the meeting called.
- 55-6. **Adjournment not to affect elections.**  
No adjournment of the meeting held on the second Tuesday of April shall affect the election of officers to be held on the following Thursday (Acts of 1959, Chapter 64).



**55-7. Quorum requirements.**

At any meeting of the inhabitants of the town qualified to vote in town affairs, the number of voters necessary to constitute a quorum shall consist of a number of voters equivalent to not less than five percent (5%) of the registered voters of the town as of the time of said meeting, but a number less than a quorum may from time to time adjourn such meetings. This chapter shall not apply to meetings or parts of meetings as are devoted exclusively to the election of town officers.

# PART II

# GENERAL LEGISLATION

## Chapter 61

### ALARM SYSTEMS

- 61-1. Fire alarm systems required in certain establishments.
- 61-2. Use of battery-operated smoke detectors.
- 61-3. Submission of plans; inspections.
- 61-4. False alarms.

[HISTORY: Adopted 9-27-1979 Special Town Meeting, Art. 2, approved 2-26-1980. Amendments noted where applicable.]

- 61-1. **Fire alarm systems required in certain establishments.**  
Every existing hotel, motel, lodging house, guest house or private home with rental rooms shall, within sixty (60) days of passage of this chapter, commence installation of automatic fire alarm systems as outlined in Section 1216.0 of the Massachusetts State Building Code, Third Edition. The automatic detecting systems shall be approved smoke detectors.
- 61-2. **Use of battery-operated smoke detectors.**  
Battery-operated smoke detectors will be considered for rental facilities with five (5) rental rooms or fewer, at the discretion of the Fire Chief.
- 61-3. **Submission of plans; inspections.**  
Plans for such installations shall be submitted to the Fire Chief for his approval. Final installation shall be inspected by the Fire Chief and the Building Inspector.
- 61-4. **False alarms. [Added 4-9-1991 ATM, Art. 19, approved 2-4-1992]**  
Whoever owns a residence or building and has a burglar alarm or fire alarm shall not have more than two (2) false/trouble alarms per calendar year. False/trouble alarms caused by thunder storms, hurricanes, certain power outages and other valid situations, as determined by the Police Chief or Fire Chief, shall be exempt from this section. The Police Chief or Fire Chief will notify the owner and his caretaker (if known) by mail each at his place of residence for each offense. Whoever violates this section shall be punished by a fine of twenty-five dollars (\$25.) for the first offense, fifty dollars (\$50.) for the second through fifth offenses and one hundred dollars (\$100.) for the sixth and subsequent offenses. Municipally owned buildings shall be exempt from this section.

## Chapter 63

### ALCOHOLIC BEVERAGES

**63-1. Possession in public.**

**63-2. Violations and penalties.**

[HISTORY: Adopted 4-13-76 Annual Town Meeting, Art. 18, approved 8-12-76. Amendments noted where applicable.]

**63-1. Possession in public.**

It shall be unlawful for any person to consume and/or transport an open container of alcoholic beverage on public highways or in public parking places, including vehicles thereon, within the Town of Edgartown.

**63-2. Violations and penalties.**

Any person violating this chapter shall be punished by a fine of not more than fifty dollars (\$50.) for each offense.

## CHAPTER 64

### PLASTIC BAGS

**64 1. Findings and purpose**

1.1 Single-use plastic bags are an environmental nuisance; adversely affect public health; are a detriment to tourism; and impair the overall quality of life of the Town's residents and visitors.

\* Because plastic bags are lightweight, they easily become airborne even when properly disposed of, littering beaches, roadsides and sidewalks, They clog storm drainage systems, contribute to marine and terrestrial pollution, and detract from the natural beauty of the Town for visitors and residents alike.

\* Plastic bags photo-degrade, disintegrating into minute particles which absorb toxins and pose a threat to riparian and marine environments, contamination the food chain, water and soil. They are also a menace to marine life, killing birds, marine mammals, sea turtles and fish each year through ingestion and entanglement.

\* The vast majority of plastic bags are not recycled, and recycling of plastic bags is not available on Martha's Vineyard. Their disposal adds to the Town's waste management expense, both through the cost of transporting waste to off-island landfills and due to their contamination of the single-stream recycling system.

1.2 Single-use plastic bag ordinances have proven to be effective in reducing plastic bag consumption and litter and are part of a growing global movement towards sustainability.

1.3 The Town is committed to protecting the environment and public health, safety, and welfare of its citizens. The goal of this bylaw is to reduce the common use of plastic checkout bags and to

encourage the use of reusable bags by consumers, thereby reducing local land and marine pollution, advancing solid waste reduction, protecting the Town's unique natural beauty and irreplaceable natural resources, and improving the quality of life for the citizens of the Town.

## **2. Definitions**

**"Checkout Bag"** means a bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store.

**"Plastic Checkout Bag"** means a plastic Checkout Bag that is less than 4 mils thick (and, for the avoidance of doubt, includes such plastic bags that are marketed as "biodegradable" or "compostable").

**"Recyclable Paper Bag"** means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word "recyclable" and the percentage of post-consumer recycled content.

**"Reusable Bag"** means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of polyester, polypropylene, washable fabric or other durable material and, in the case of plastic bags, is at least 4.0 mils in thickness.

**"Store"** means any commercial enterprise selling goods, food or services directly to the public, whether for or not for profit, including, but not limited to, convenience and grocery stores, markets, restaurants, pharmacies, liquor stores, take-out food purveyors, and merchandise retailers.

## **3. Use regulations**

3.1 No store in the Town shall provide to any customer a Plastic Checkout Bag.

3.2 If a store provides Checkout Bags, they may only provide Recyclable Paper Bags or Reusable Bags.

3.3 This bylaws does not apply to the clear or opaque plastic bags without handles provided to a customer:

a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g beads and nails or other small hardware items) to the point of sale; or

b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

3.4 Stores may charge and retain a fee for any Recyclable Paper Bag or Reusable Bag that they provide. The fee could be used to recover the costs of the bag and/or as an incentive to customers to bring their own Reusable Bags. Customers are encouraged to bring their own reusable Bags when they shop, and Stores may offer a credit to customers or bring in their own bags.

## **4. Administration and Enforcement**

4.1 This regulation may be enforced by any Agent of the Board of Health.

4.2 A person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to F.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw., The following penalties apply:

\* first violation: a written warning.

\* second violation: \$50 fine.

\* third and subsequent violations: \$100 fine.

Each day the violation continues constitutes a separate violation.

**5. Effective Date**

5.1 This bylaw takes effect on January 1, 2017.

**6. Waiver**

6.1 The Board of Health may waive the effective date for a Store for up to one year if the Store's inventory on non-compliant bags will not be able to be used prior to January 2017.

**CHAPTER 65**

**BALLOONS**

- 65** (1) No person, nonprofit organization, association, firm or corporation, shall knowingly release, organize the release of or intentionally cause to be released into the atmosphere any helium or other lighter than air gas balloons in the town of Edgartown. Any violation of this bylaw shall result in a fine of \$100.00. The provisions of section (1) shall not apply to the balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or testing procedure of by a person on behalf of the government agency or pursuant to a governmental contract for scientific or meteorological purposes. (Art. 56, 04/09/2019 ATM)

## Chapter 69

### BICYCLES

**69-1. Direction of operation.**

**69-2. Exceptions.**

**[HISTORY: Adopted 2-14-56 Annual Town Meeting, Art. 49, approved 4-5-56. Amendments noted where applicable.]**

**69-1. Direction of operation.**

All laws or traffic regulations pertaining to motor vehicles in the Town of Edgartown, insofar as they pertain to the directional flow of traffic, shall be applicable to persons riding bicycles.

**69-2. Exceptions. [Amended 5-18-76 STM, Art. 12, approved 9-9-76]**

A cyclist may dismount and walk his bicycle against traffic on any street governed by the aforementioned laws or regulations except Main Street.

## Chapter 73

### BUILDING CONSTRUCTION ADMINISTRATION

- 73-1. Purpose.**
- 73-2. Appointment of Building Inspector.**
- 73-3. Offices under authority of Building Inspector.**
- 73-4. Responsibilities of Building Inspector.**
- 73-5. Compensation of Building Inspector.**
- 73-6. Permit fees.**
- 73-7. Designation of fire districts.**

[HISTORY: Adopted 4-8-75 Annual Town Meeting, Art. 26, approved 8-22-75. Amendments noted where applicable.]

- 73-1. Purpose.**

The purpose of this chapter is to make provisions complementary to those of the Commonwealth of Massachusetts State Building Code (“Basic Code”) in order to ensure its appropriate application and effective administration in the Town of Edgartown.
- 73-2. Appointment of Building Inspector.**

The Board of Selectmen shall annually, following the town elections, appoint a Building Inspector, who shall hold office for the term of one (1) year or until such time as his successor is appointed. The Building Inspector shall be the head of a municipal department called the “Department of Inspection.”
- 73-3. Offices under authority of Building Inspector.**

The offices of Wiring Inspector, Gas Inspector and such other inspection offices as the appointment authority thereof shall so determine shall be placed under the administration, control and supervision of the Building Inspector.
- 73-4. Responsibilities of Building Inspector.**

The Building Inspector shall keep consolidated records of all inspections made pursuant to the Basic Code or any other bylaws or regulations concerning the erection, alteration and demolition of buildings within the town.
- 73-5. Compensation of Building Inspector.**

The compensation of the Building Inspector shall be established by the Personnel Board Salary Administration Bylaw.
- 73-6. Permit fees.**

A schedule of fees for permits as authorized under Section 118.0 of the Basic Code shall be as established and revised from time to time by the Board of Selectmen.



**73-7. Designation of fire districts.**

The entire town shall be designated as “outside fire limits,” as referred to in Section 301.3 of the Basic Code.

## Chapter 74

### Stretch Energy Code

Town will voted to enact Chapter 74 of the Town of Edgartown General Bylaws, entitled “Stretch Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of 1 July 2022, a copy of which is on file with the Town Clerk, or take any other action relative thereto. **Annual Town Meeting 06-22-2021.**

#### Section – Stretch Energy Code

##### Section.1 – Definitions

##### Section.2 – Purpose

##### Section.3 – Applicability

##### Section.4 – Stretch Code

#### 1 – Definitions

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for establishment of minimum design and construction requirements for energy efficiency, and is updated on a three year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of Massachusetts building code, the Stretch Energy Code is an appendix to the Massachusetts building code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code.

#### 2 – Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for new buildings.

#### 3 – Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 115.AA, as indicated.

#### 4 – Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into the Town of Edgartown General Bylaws Chapter 74. The Stretch Code is enforceable by the Inspector of Buildings or Building Commissioner and effective as of 1 July 2022.

## **Chapter 75**

### **BUILDINGS, NUMBERING OF**

- 75-1. Street numbers required.**
- 75-2. Notice to owner.**
- 75-2.1. Size and display of numbers; occupancy permits.**
- 75-3. Responsibility of owner.**
- 75-4. Violations and penalties.**

**[HISTORY: Adopted 4-10-1979 Annual Town Meeting, Art. 31, approved 7-19-1979. Amendments noted where applicable.]**

- 75-1. Street numbers required.**
  - A. Each and every building used for residential or business purposes located on or near an accepted way in the Town of Edgartown shall bear a street number as assigned by the Board of Selectmen.
  - B. Each and every building used for residential or business purposes located on or near a commonly used way of access where reasonably built-up conditions prevail and in such locations as public interest require, as deemed by the Board of Selectmen, shall be so numbered.

- 75-2. Notice to owner.**

The Selectmen shall notify the owner of record appearing on the most recent Assessor's tax records of the assignment of such a number, by prepaid mail.

- 75-2.1 Size and display of numbers; occupancy permits. [Added 6-26-1989 STM, Art. 5, approved 1-8 1990]**
  - A. Numbers shall be a minimum of three (3) inches high, will be of a contrasting color to the mounting surface and shall be viewable from the street.
  - B. Any owner of a building not viewable from the street shall post the building number on a post or other visible device at the driveway entrance.
  - C. The Building Inspector shall not issue an occupancy permit for a new building until the building number has been posted in accordance with this chapter.

- 75-3. Responsibility of owner.**

Within thirty (30) days of such notice, the owner or his agent shall cause to be affixed to the buildings cited the assigned number and to continue maintenance of such assigned number on the building.

**75-4. Violations and penalties.**

The owner, upon failure to maintain such number after a notice has been mailed to the owner of record of a deficiency, shall be liable to be fined not more than twenty dollars (\$20.) for each omission of this requirement.

## Chapter 85

### CURFEW

#### **85-1. Unlawful activity.**

**[HISTORY: Adopted as Ch. X of the 1983 compilation of bylaws, last approved 3-7-24. Amendments noted where applicable.]**

#### **85-1. Unlawful activity.**

It shall be unlawful for any child under the age of sixteen (16) to play or loiter upon any street or public place in the Village of Edgartown after 8:00 p.m. except during the months of June, July, August and September and after 9:00 p.m. during June, July, August and September, Eastern standard time, and any police officer, truant officer or constable may take into his custody any such child so playing or loitering and conduct it to the home of its parents or guardian.

## Chapter 88

### DOGS AND OTHER ANIMALS

#### ARTICLE I

##### Dogs

- 88-1. **Appointment of Animal Control Officer.**
- 88-2. **Dogs to be restrained.**
- 88-3. **Apprehension of unrestrained dogs; impoundment.**
- 88-4. **Notification of owner: reclamation.**
- 88-5. **Impoundment of certain female dogs.**

#### ARTICLE II

##### Animals

- 88-6. **Running at large prohibited.**
- 88-7. **Violations and penalties.**

[HISTORY: Art. I, adopted 3-12-1974 Annual Town Meeting, Art. 45, approved 5-30-1974; Art. II, adopted 4-9-1985 Annual Town Meeting, Art. 18, approved 8-27-1985. Amendments noted where applicable.]

#### ARTICLE I

##### Dogs

[Adopted 3-12-1974 ATM, Art. 45, approved 5-30-1974]

- 88-1. **Appointment of Animal Control Officer.**  
The Selectmen shall annually appoint an Officer of Animal Control, who shall perform the duties and functions of the Dog Officer and the Inspector of Animals and who shall be a special officer of the Police Department.
- 88-2. **Dogs to be restrained.**  
All dogs owned or kept within the limits of the town shall be restrained from running at large or shall be kept within the immediate control of their owners or keepers.
- 88-3. **Apprehension of unrestrained dogs; impoundment. [Amended 10-6-1988 STM, Art. 31, approved 3-16-1989]**  
The Officer of Animal Control may apprehend all dogs which are not so restrained or controlled and may impose a fine pursuant to MGL C. 140, Sec. 173, of ten dollars (\$10.) for each violation and may prosecute violations of this Article as provided in MGL C. 140, Sec. 173A. Upon apprehension of any dog found in violation of this Article, the Office of Animal Control may also impound such dog and shall make a record upon which shall be entered the breed, color and sex

of such dog and whether or not it is licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag.

**88-4. Notification of owner; reclamation. [Amended 10-6-1988 STM, Art. 31, approved 3-16-1989]**

The owner, if known, shall be notified as soon as possible that the dog has been impounded. The owner of any dog so impounded may reclaim such dog upon payment of the fine, license fee, if unpaid, and all the costs and charges incurred by the town for apprehending, impounding and maintenance of such dog.

**88-5. Impoundment of certain female dogs. [Added 2-25-1982 STM, Art. 3, approved 6-15-1982]**

If the Dog Officer determines that a dog in her oestrus cycle, even when confined to the property of the owner or keeper, is attracting other dogs to the area, which condition causes disturbance or danger to neighboring property or public areas, he may impound the dog for the duration of the oestrus cycle, releasing it thereafter to the owner or keeper upon the payment of pound fees; or the Dog Officer may require the owner or keeper to place and keep such dog, while in such cycle, in a kennel or to remove it from the area so that the nuisance is abated.

ARTICLE II

**Animals**

**[Adopted 4-9-1985 ATM, Art. 18, approved 8-27-1985]**

**88-6. Running at large prohibited.**

No person owning or having the care of sheep, swine, horses, oxen, cows or other grazing animals shall permit or suffer any such animal to go at large or graze on any street, sidewalk or other public place within the town. No such person shall permit or suffer any such animal to stand, rest or be fed in any street, sidewalk or other public place within one-fourth (1/4) mile of Main Street or to be fed in any street, sidewalk or public place within the town in such a manner as to impede public travel or to create litter.

**88-7. Violations and penalties**

The penalties shall be as follows:

- A. First offense: warning.
- B. Second offense: twenty-five dollar (\$25.) fine.
- C. Third offense: thirty dollar (\$30.) fine.
- D. Fourth and subsequent offenses: fifty dollar (\$50.) fine.

**Chapter 95**

**FEES**

**ARTICLE I  
Town Clerk's Fees**

**95-1. Fees to be promulgated; posting.**

**ARTICLE II  
Fee Schedule**

**95-2. Fees enumerated.**

**[HISTORY: Art. I, adopted 4-13-1982 Annual Town Meeting, Art. 24, approved 8-10-1982; Art. II, adopted 6-28-1988 Special Town Meeting, Art. 8, approved 9-23-1988. Amendments noted where applicable.]**

**ARTICLE I  
Town Clerk's Fees  
[Adopted 4-13-1982 ATM, Art. 24, approved 8-10-1982]**

**95-1. Fees to be promulgated; posting.**

The Selectmen and the Town Clerk shall adopt and set such fees of the Town Clerk as they shall deem reasonable and appropriate. These fees shall take effect upon the posting at the office of the Town Clerk and publication once in a newspaper.

**ARTICLE II  
Fee Schedule  
[Adopted 6-28-1988 STM, Art. 8, approved 9-23-1988<sup>6</sup>]**

**95-2. Fees enumerated.**

**[History:95-2 Adopted 4-12-83 ATM, Article 13, approved 9-20-1983; next Adopted 6-28-88 STM, Art. 8, approved 9-23-88; Adopted 4-9-13 ATM, Article 9, approved 10-24-2013]**

<b>Fee name</b>	<b>Current Fee</b>	<b>Description</b>	<b>New Fee</b>
Amending a Birth Record	\$10.00		\$20.00

<sup>6</sup> Editor's Note: This enactment superseded former Art. II, Fee Schedule, adopted 4-12-1983 ATM, Art. 13, approved 9-20-1983.



Birth Certificate	\$5.00		\$10.00
Entering delayed record of birth	\$10.00		\$25.00
Filing business certificate	\$20.00		\$40.00
Modification of Business Certificate	\$10.00		\$15.00
Record of practice of podiatry	\$20.00		\$20.00
Amending a Death Record	\$10.00		\$20.00
Death Certificate	\$5.00		\$10.00
Filing of Marriage Intention	\$15.00		\$30.00
Recording marriage from outside the Commonwealth	\$5.00		\$15.00
Marriage Certificate	\$5.00		\$10.00
Amending a Marriage Record	\$10.00		\$25.00
Recording Power of Attorney	\$10.00		\$10.00
Record of practice of optometry or Certified copy	\$20.00		\$20.00
Recording certificate for physician of steopath in Commonwealth	\$20.00		\$20.00
Recording order granting location, alteration, or transfer of poles, piers, abutments, or conduits	\$40.00 flat rate, \$10.00 additional streets	Includes provisions of Section 22 Chapter 66.	\$50.00 flat Rate. \$15.00 additional
Examining records relating to birth, marriage, or deaths	Actual expense but not less than \$5.00		Actual expense but not less than \$10.00
Copying any record pertaining to a birth, marriage or death (Not certified)	\$5.00		\$10.00
Receiving and filing of inventory Items to be included in closing out sale	\$10.00 first page, \$2.00 each additional page		\$15.00 first page, \$3.00 each additional page

Filing copy of trust by trustees or Associations of any amendment	\$20.00 first page, \$2.00 each additional page	Sections 2, Chapter 182	\$20.00 first page \$3.00 each additional page
Recording deed of plot in cemetery	20.00		\$20.00
Recording any other documents	\$10.00 first page, \$2.00 each additional page		\$10.00 first page \$3.00 each additional page
Voter's Card	\$5.00		\$10.00
Storage Fuel License	\$20.00		\$40.00
Auctioneer License	\$15.00	Per day	\$30.00
Raffles/Bazaar License	\$20.00	Per year	\$40.00
Pool, Sippio, Billiard, Table or Bowling Alley	\$50.00	Each	\$100.00
Spayed or Neutered Dog License	\$6.00		\$6.00
Non-Spayed or Non-Neutered Dog	\$10.00		\$10.00
Kennel 1-4 Dogs	\$25.00		\$35.00
Kennel 4-10 Dogs	\$50.00		\$60.00

Submitted by the Town Clerk

RECOMMENDED BY FINANCIAL ADVISORY COMMITTEE

## **Chapter 98**

### **FIREARMS**

**98-1. Prohibited activity, exceptions.**

**[HISTORY: Adopted 3-10-64 Annual Town Meeting, Art. 14, approved 3-26-64. Amendments noted where applicable.]**

**98-1. Prohibited activity, exceptions.**

No person shall discharge any firearms or explosives of any kind within the limits of any highway or public property or on any private property except with written consent of the owner or legal occupant; provided, however, that this chapter shall not apply to the lawful defense of life and property nor to any other discharge of firearms in accordance with the law. This chapter shall be in effect during deer hunting season only in Dukes County.

## Chapter 106

### HANDBILLS AND SIGNS

- 106-1. Permission required for posting.**
- 106-2. Removal of unlawful postings.**
- 106-3. Liability for unlawful posting.**
- 106-4. Violations and penalties.**

**[HISTORY: Adopted 10-16-2000 Special Town Meeting, Art. 2, approved 11-26-2001. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Littering – See Ch. 119.  
Yard sales – See Ch. 172.  
Zoning – See Ch. 175.

**106-1. Permission required for posting.**

No person shall post or attach or directly or indirectly cause to be posted or attached in any manner, any handbill, poster, advertisement or notice of any kind on public property except by permission of the Board of Selectmen, or on any private property without the consent of the owner or occupant thereof.

**106-2. Removal of unlawful postings.**

Any handbill or sign found posted or otherwise affixed on any public property contrary to the provisions of this chapter may be removed by the Police Department or the Highway Department.

**106-3. Liability for unlawful posting.**

The person or persons responsible for causing the unlawful posting of any notice described herein will be liable for the cost of removal and for the penalties described below. Persons liable under this section include but are not limited to, any individual, corporation, partnership or other organization who advertisement, message or information appears on the unlawfully posted notice.

**106-4. Violations and penalties.**

Any person who violates this chapter shall be subject to a fine of \$100 for the first offense and \$300 for each subsequent offense.

## Chapter 109

### HAWKERS AND PEDDLERS

**109-1. Selectmen to promulgate regulations.**

**[HISTORY: Adopted as Ch. VI of the 1983 compilation of bylaws. Amendments noted where applicable.]**

**109-1. Selectmen to promulgate regulations.**

The Selectmen may make rules not contrary to law to regulate peddling by licensed or unlicensed peddlers.<sup>7</sup>

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<sup>7</sup> Editor's Note: The Selectmen adopted rules and regulations pertaining to this subject 11-15-50.

## Chapter 112

### HISTORIC DISTRICT

- 112-1. Purpose.
- 112-2. Establishment of district; map.
- 112-3. Historic District Commission.
- 112-4. Definitions.
- 112-5. Certificate required.
- 112-6. Design considerations.
- 112-7. Aspects not to be considered.
- 112-8. Limits of Commission's authority.
- 112-9. Ordinary maintenance not affected.
- 112-10. Additional powers and duties of Commission.
- 112-11. Meetings of Commission.
- 112-12. Determinations; hearings.
- 112-13. Appeals.
- 112-14. Enforcement; violations and penalties.
- 112-15. Enlargement or reduction of Historic District.
- 112-16. Amendments.
- 112-17. Severability.

[HISTORY: Adopted 4-14-87 Annual Town Meeting, Art. 15.<sup>8</sup> Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning. – See Ch. 175.

#### 112-1. Purpose.

The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the inhabitants and property owners of the Town of Edgartown through the preservation and protection of the distinctive characteristics of buildings and places of historical significance to the town or the architecture of such buildings and places and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

#### 112-2. Establishment of district; map.

There is hereby established in the Town of Edgartown an Historic District pursuant to the provisions of Massachusetts General Laws, Chapter 40C, set forth as shown on a map filed with the Town Clerk entitled "Edgartown Historic District, 1987."

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<sup>8</sup> Editor's Note: This bylaw was deemed approved 8-24-87 due to lack of action by the Attorney General within ninety (90) days, pursuant to MGL C. 40, Sec. 32.

**112-3. Historic District Commission.**

- A. There is hereby established an Historic District Commission for the Historic District, consisting of seven (7) members appointed by the Board of Selectmen. All members of the Historic District Commission shall be residents of the Town of Edgartown, and the Historic District Commission shall, at all times, have at least one (1) member who is a resident of or owner of property in the Historic District to be administered by the Commission.
- B. Prior to making any appointment to the original membership of the Historic District Commission, the Board of Selectmen shall submit a written request for two (2) nominees from each of the following organizations: the Dukes County Historical Society or, if it no longer exists, the then-existing local historical society; the chapter of the American Institute of Architects covering the Town of Edgartown; and the Cape and Islands Board of Realtors or, if it no longer exists, the then-existing Board of Realtors covering the Town of Edgartown. The Board of Selectmen shall appoint to the original membership of the Historic District Commission one (1) of the two (2) nominees selected by each of said organizations. Thereafter, it shall, to the extent possible, appoint successors to the Historic District Commission in the same manner as was used for the original appointment of the position that the new appointee will fill. However, if within thirty (30) days after submission of its written request for nominees to any of said organizations no such nominees have been made, the Board of Selectmen may proceed to appoint the members of the Historic District Commission without nominations by any such organization.
- C. The Board of Selectmen shall appoint three (3) alternate members to the Historic District Commission, each of whom shall be residents of the town and need not be selected from nominees of an organization entitled to nominate members.
- D. In making appointments of members to the Historic District Commission, the Board of Selectmen shall attempt to ensure that a registered architect, a realtor and a lawyer are members thereof at all times; and, in making appointments of members and alternate members, the Board of Selectmen shall appoint individuals who, by virtue of their training, occupation or experience, are particularly qualified to further the intent and purposes of this chapter.
- E. Each member of the Historic District Commission shall be appointed for a term of three (3) years, except that when the Historic District Commission is first established, two (2) of its members shall be appointed for terms of one (1) year, two (2) of its members shall be appointed for terms of two (2) years, and three (3) of its members shall be appointed for terms of three (3) years. Similarly, each alternate member shall be appointed for a term of three (3) years, except that, of the first group of alternate members, one (1) member shall be appointed for a term of one (1) year, one (1) member shall be appointed for a term of two (2) years, and the third member shall be appointed for a term of three (3) years.
- F. Vacancies shall be filled in the same manner as the original appointments for the unexpired terms.

- G. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Historic District Commission, his or her place shall be taken by an alternate member designated by the Chairman of the Historic District Commission. Each member and alternate member of the Historic District Commission shall continue in office after the expiration of his or her term until his or her successor is duly appointed and qualified.
- H. All members and alternate members shall serve without compensation.
- I. The Historic District Commission shall annually elect a Chairperson and Vice Chairperson from its members and a Secretary from within or without its membership.

**112-4. Definitions.**

For purposes of this chapter, the words listed below shall have the following meanings:

ALTERED – Includes the words “rebuilt,” “reconstructed,” “restored,” “removed” and “demolished” and the phrase “changed in exterior color.”

BUILDING – A combination of materials forming a shelter for persons, animals or property.

COMMISSION – The Commission acting as the Historic District Commission.

CONSTRUCTED – Includes the words “built,” “erected,” “installed,” “enlarged” and “moved.”

EXTERIOR ARCHITECTURAL FEATURE – Such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, without reference to fences, hedges or other artificial or natural screenings, which shall not be considered sufficient to obscure a building or structure from the public view, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, lights, signs and other appurtenant exterior features.

STRUCTURE – A combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

**112-5. Certificate required.**

- A. Except as this chapter may otherwise provide in accordance with Sec. 112-8 or 112-9, no building or structure within the Historic District shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.
- B. Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including, in the case of demolition or removal, a statement



of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

- C. No building permit for construction of a building or structure or for alteration of an exterior architectural feature within the Historic District and no demolition permit for demolition or removal of a building or structure within the Historic District shall be issued by the town or any department or official thereof until the certificate required by this section has been issued by the Commission.

**112-6. Design considerations.**

In passing upon matters before it, the Commission shall strive to advance the purposes of this chapter and shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, proportions, texture, material and color of the features involved, the relation of such features to similar features of buildings and structures in the surround area and the position of such buildings or structures in relation to the public streets, public way, public parks or public bodies of water in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity.

**112-7. Aspects not to be considered.**

- A. The Commission shall not, in passing upon matters before it, consider interior arrangements or architectural features not subject to public view. In determining whether a feature is subject to public view from a public street, public way, public park or public body of water, fences, hedges and other artificial or natural screenings shall not be considered sufficient to obscure the feature from the public view. Further, the Commission shall not make any recommendation or requirement with respect to any matter before it except for the purpose of preventing developments incongruous with the historic aspects or the architectural characteristics of the surroundings and of the Historic District.
- B. While the Commission shall encourage owners of buildings and structures in the Historic District to use historically authentic materials wherever feasible for any construction or alteration, the use of any particular material shall not be prohibited based upon its composition alone.
- C. It is not the intent of this chapter to require that buildings and structures in the Historic District be maintained as historic artifacts. Rather, the Commission is required to apply the standards set forth herein, particularly those contained in this section and Sec. 112-6, in order to protect and preserve the general flavor and the distinctive characteristics and architecture of the Historic District.

**112-8. Limits of Commission's authority.**

- A. The authority of the Commission shall not extend to the review of any of the following categories of buildings or structures or exterior architectural features in the Historic District, and the buildings or structures or exterior architectural features so excluded may be constructed or altered within the Historic District without review by the Commission:
- (1) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify.
  - (2) Terraces, walks, driveways and sidewalks, provided that any such structure is substantially at grade level.
  - (3) Storm doors and storm windows, screens, lighting fixtures and antennas (except satellite dishes).
  - (4) Signs of not more than one (1) square foot in area in connection with the use of a residence for a customary home occupation or for professional purposes, provided that only one (1) such sign is displayed in connection with each residence and, if illuminated, is illuminated only indirectly.
  - (5) The reconstruction, substantially similar in exterior design and materials, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided that such reconstruction is begun within one (1) year thereafter and is carried forward with due diligence.
- B. The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purposes of this chapter and of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, as amended.
- C. The Commission may further determine from time to time after public hearing that the authority of the Commission shall be limited to only those exterior architectural features within the Historic District subject to view from one (1) or more specifically designated public streets, public ways, public parks or public bodies of water, as opposed to all exterior architectural features within the Historic District subject to view from a public street, public way, public park or public body of water without substantial derogation from the intent and purposes of this chapter and of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, as amended.
- D. Upon request, the Commission shall issue a certificate of nonapplicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the provisions of Subsection A, B or C of this section.

**112-9. Ordinary maintenance not affected.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within the Historic District which does not involve a change in design, material, color or the outward appearance thereof nor to prevent landscaping with plants, trees or shrubs nor to prevent the meeting of requirements certified by a

duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition nor to prevent any construction or alteration under a permit duly issued prior to the effective date of this chapter.

**112-10. Additional powers and duties of Commission.**

The Commission shall have the following additional powers, functions and duties:

- A. If the Commission determines that the construction or alteration for which an application for a certificate of appropriateness has been filed will be appropriate for and compatible with the preservation or protection of the Historic District, the Commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefore as set forth in its records, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. If, within fourteen (14) days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.
- B. In the case of a determination by the Commission that an application for a certificate of appropriateness or for a certificate for nonapplicability does not involve any exterior architectural feature or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Sec. 112-8, the Commission shall cause a certificate of nonapplicability to be issued to the applicant.
- C. If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate or in the event of an application for a certificate of hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved but not affecting the Historic District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this chapter and of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, as amended. If the Commission determines that, owing to such conditions, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation or in the event of a failure by the Commission to make a determination on an application within the time specified in Sec. 112-12 hereof, the Commission shall cause a certificate of hardship to be issued to the applicant.

- D. Each certificate issued by the Commission shall be dated and signed by its Chairman, Vice Chairman, Secretary or such other person designated by the Commission to sign such certificates on its behalf.
- E. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein and shall adopt and amend such rules and regulations not inconsistent with the provisions of this chapter and the provisions of the Historic Districts Act, Massachusetts General Laws, Chapter 40C, as amended, and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the Town Clerk.
- F. The Commission shall file with the Town Clerk and with any department or official of the town having authority to issue building permits a copy or notice of all certificates and determinations of disapproval issued by it.
- G. The Commission may, after public hearing, set forth in such manner as it may determine the various designs of certain appurtenances which will meet the requirements of the Historic District and a roster of certain colors of paint and roofing materials which will meet the requirements of the Historic District, but no such determination shall limit the right of an applicant to present other designs, colors or materials to the Commission for its approval.
- H. The Commission may, subject to appropriation, employ personnel and incur other expenses appropriate to the carrying on of its work and may accept money and gifts and expend the same for such purposes.
- I. The Commission shall have, in addition to the powers, authority and duties granted to it by this chapter, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Town Meeting.

**112-11. Meetings of Commission.**

Meetings of the Commission shall be held at the call of the Chairman and shall be called at the request of two (2) members of the Commission and in such other manner as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. The concurring vote of the majority of the members of the Commission shall be necessary to issue a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship.

**112-12. Determinations; hearings.**

- A. The Commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such features which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.
- B. The Commission shall fix a reasonable time for the hearing on any application subject to approval and shall give public notice of the time, place and purposes thereof at least

- fourteen (14) days before said hearing in such manner as it may reasonably determine and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.
- C. As soon as convenient after such public hearing, but in any event within sixty (60) days after the filing of the application or within such further time as the applicant may allow in writing, the Commission shall make a determination on the application. If the Commission shall fail to make a determination within such period of time, the Commission shall thereupon issue a certificate of hardship.
  - D. A public hearing on an application need not be held if such hearing is waived, in writing, by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category or color, as the case may be, is so insubstantial in its effect on the Historic District that it may be reviewed by the Commission without public hearing on the application; provided, however, that if the Commission dispenses with a public hearing on an application, notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby, as above provided, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

**112-13. Appeals.**

Any applicant aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, file an appeal in the Superior Court sitting in equity for Dukes County pursuant to the provisions of MGL C. 40C, Sec. 12A, as amended.

**112-14. Enforcement; violations and penalties.**

- A. The Superior Court sitting in equity for Dukes County shall have jurisdiction to enforce the provisions of this chapter and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the Board of Selectmen or of the Commission, restrain by injunction violations thereof; and, without limitation, such Court may order the removal of any building, structure or exterior architectural feature altered in violation thereof and may issue such other orders for relief as may be equitable.
- B. Whoever violates any of the provisions of this chapter shall be punished by a fine of not less than ten dollars (\$10.) nor more than five hundred dollars (\$500.). Each day during any portion of which a violation continues to exist shall constitute a separate offense.

**112-15. Enlargement or reduction of Historic District.**

An Historic District may be enlarged or reduced or an additional Historic District in the town may be created in accordance with the provisions of MGL C. 40C, Sec. 3.

**112-16. Amendments.**

This chapter may, from time to time, be amended in any manner not inconsistent with the provisions of Massachusetts General Laws, Chapter 40C, by a two-thirds vote of a Town Meeting, provided that the substance of such amendment has first been submitted to the Historic District Commission having jurisdiction over such district for its recommendation and its recommendation has been received or sixty (60) days have elapsed without such recommendation.

**112-17. Severability.**

In the event that any provision of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

## Chapter 115

### JUNK DEALERS

#### 115-1. Occupations to be licensed.

[HISTORY: Adopted 3-7-22 Annual Town Meeting, approved 3-23-22. Amendments noted where applicable.]

#### 115-1. Occupations to be licensed.

No person shall be a collector of or dealer in junk, old metals or secondhand articles or a keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles unless licensed therefor.

**Chapter 116**

**COMMERCIAL MARINE LICENSE  
(Adopted STM 10-29-01, Article 5, approved 2/26/02)**

**116.1 License required.**

No person, business, corporation or other legal entity whose legal or principal place of business or business operations is situate within the Town of Edgartown or who maintains a regular and usual place of business within said town shall engage in any commercial activity, business or any form of marine endeavor whatsoever for profit or hire or the like within the Harbor Planning Boundary as outlined in the Edgartown Harbor Plan [Page 152] dated September 12, 1997 nor upon the waters of the Great Pond situate in whole or in part within the Town, unless, (1) the Board of Selectmen (the Board) has first determined, upon application, that such activity qualifies as a Water Dependent Use as defined in 131 CMR, and (2) without first being licensed by the Board as required in this by-law.

Without limiting the scope of the foregoing term, a Water Dependent Use shall include the following activities:

- |  |                                 |
|--|---------------------------------|
| Boat Rental (any propulsion)           | Sportfishing charters           |
| Water tours                            | Sailing charters                |
| Commercial fishing                     | Aquaculture & shellfish farming |
| Launch service                         | Ferry Services                  |
| Diving services & salvage              | Marine repairs                  |
| Septage pumpout vessels                | Marine research & testing       |
| Dock/pier/float construction & repairs |                                 |

However, the Water Dependent Use activities of commercial fishing, aquaculture & shellfish farming, ferry services, and marine research & testing, being otherwise licensed, permitted or regulated, are not required to obtain a license under this by-law.

In that applicants under this by-law are applying for a license to conduct private business upon the waters of Edgartown harbor which are public property, applications to license activities other than those specified above must include proof, satisfactory to the Board, that the proposed activity is a Water Dependent Use and will serve a public purpose and the public good.

In addition, no license shall be issued unless a majority of the Board is satisfied after an investigation of all facts that the applicant has a place of business, which shall not include the use, in any way, of other public property, suitable for such a purpose as is specified in the license application.



The Board may adopt and prescribe such rules and regulations which it deems to be in the best interest of public need, safety and good order, in licensing any applicant under this by-law.

Applications for a license under this by-law shall be filed with the Board and contain all such information as the Board in its sole discretion may, from time to time, require.

Each application shall be accompanied by a non-refundable application fee. If an application is approved, the applicant, upon payment of a licensing fee, shall be granted a license which shall, upon payment of an annual renewal fee, be renewable annually if, upon review a majority of the Board is satisfied that the applicant has previously complied with the rules and regulations in effect during the last licensing period. The non-refundable application fee, the licensing fee and the license renewal fee shall be in such amounts as is, from time to time, established by the Board.

Licenses shall not be transferable and licenses not used during one year's time shall be null and void.

Whoever operates any commercial activity, business or any form of marine endeavor for profit or hire or the like upon said waters without first being licensed as aforesaid or, upon application, having had the application for licensing denied by the Board, shall be subject to a fine of not more than One Hundred (\$100.00) for each day of unlicensed activity.

Whoever, first being licensed, violates the conditions of said license, the provisions of this by-law or the rules and regulations adopted by the Board and it is the first violation of the preceding twelve (12) months, the Board may impose a suspension of the marine license for any period of time up to one (1) week and in addition to or in substitution therefore, may impose a fine of up to Fifty Dollar (\$50.00). For any second finding of any violation of any regulation within the preceding twelve (12) months by the marine licensee, the Board may impose a suspension of the marine license for any period of time up to two (2) weeks and in addition to or in substitution therefore, may impose a fine of up to One Hundred Dollars (\$100.00). For any third finding of any violation of any regulation within the preceding twelve (12) months by the marine licensee, the Board may impose a suspension of the marine license for any period of time up to four (4) weeks and in addition to or in substitution therefore, may impose a fine of up to Two Hundred Dollar (\$200.00). For any fourth finding of any violation of any regulation within the preceding twelve (12) months, the Board may impose a revocation of the permitting license for the balance of the licensing period and in addition to or in substitution therefore, may impose a fine of up to Three hundred dollars (\$300.00).

## Chapter 117

### LAUNCH SERVICE

**117-1. License required.**

**117-2. Violations and penalties.**

**[HISTORY: Adopted 4-13-1994 Annual Town Meeting Art. 36, approved 8-12-1994. Amendments noted where applicable.]**

**117-1. License required.**

No person or entity shall operate a launch service in Edgartown Harbor without first obtaining a license from the Board of Selectmen.

**117-2. Violations and penalties.**

Any person or entity violating this chapter shall be punished by a fine or not more than fifty dollars (\$50.) for each offense.

**Chapter 118**

**LICENSES AND PERMITS**

**ARTICLE I**

**Delinquent Taxpayers**

- 118-1. List of delinquent taxpayers.**
- 118-2. Denial, revocation or suspension of license or permit.**
- 118-3. Payment agreement.**
- 118-4. Waiver.**
- 118-5. Exceptions.**

**ARTICLE II**

**Rental of Motor Vehicles**

- 118-6. License required for business.**
- 118-7. Place of business to be suitable.**
- 118-8. Contents of application.**
- 118-9. Fees.**
- 118-10. Posting of license.**
- 118-11. Licenses nontransferable; time limit.**
- 118-12. Adoption of rules and regulations.**
- 118-13. Violations and penalties.**

[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]

**ARTICLE I**

**Delinquent Taxpayers**

**[Adopted 4-11-1995 ATM, Art. 24, approved 7-6-1995]**

**118-1 List of delinquent taxpayers.**

The Town Collector, hereinafter referred to as the "Collector," shall annually furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

**118-2. Denial, revocation or suspension of license or permit.**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Collector or with respect to any activity, event or other matter which is the subject of

such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Collector; provided, however, that written notice is given to the party and the Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

**118-3. Payment agreement.**

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**118-4. Waiver.**

The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL C. 268A, Sec. 1, in the business or activity conducted in or on said property.

**118-5. Exceptions.**

This Article shall not apply to the following licenses and permits: open burning; bicycle permits; sales of articles for charitable purposes; children work permits; clubs, associations dispensing food or beverage licenses; dog licenses; fishing, hunting, trapping licenses; marriage licenses; theatrical events; public exhibition permits; yard sales; sidewalk and excavation permits; and moving building permits.

ARTICLE II  
**Rental of Motor Vehicles**  
**[Adopted 4-14-1998 ATM, Art. 12, approved 9-25-1998]**

**118-6. License required for business.**

No person, business or corporation shall engage in the business of renting, leasing or keeping for rent or lease any motor vehicles, motorcycles, motor scooters or mopeds (motorized bicycles) without first being licensed by the Board of Selectmen (the Board).

**118-7. Place of business to be suitable.**

No such license shall be issued unless a majority of the Board is satisfied, after an investigation of all facts, that the applicant has a place of business suitable for such a purpose.

**118-8. Contents of application.**

Application for a license under this article shall be filed with the Board and contain any and all such information as in its sole discretion requires.

**118-9. Fees.**

- A. Each application shall be accompanied by a nonrefundable application fee, as established by said Board.
- B. If an application is approved, the applicant, upon payment of an additional fee as established by the Board, shall be granted a license which shall be renewable annually.
- C. The annual fee for renewal thereof shall be established by the Board.

**118-10. Posting of license.**

The Board shall issue a license to each approved applicant which shall be posted in a conspicuous manner at the place of business.

**118-11. Licenses nontransferable; time limit.**

Licenses shall not be transferable and licenses not used during one year's time shall be null and void.

**118-12. Adoption of rules and regulations.**

The Board may adopt and prescribe such rules and regulations which it deems to be in the best interest of public need, safety and good order in licensing any business under this article.

**118-13. Violations and penalties.**

Whoever violates the provisions of this article or the rules and regulations adopted by the Board, and it is the first violation of the preceding 12 months, the Selectmen may impose a suspension of the agency license for any period of time up to one week and, in addition to or in substitution therefor, may impose a fine of \$50. For any second finding of any violation of any regulation within the preceding 12 months of the agency, the Selectmen may impose a suspension of the agency license for any period of time up to two weeks and in addition to or in substitution therefor, may impose a fine of \$100. For any third finding of any violation of any regulation within the preceding 12 months of the agency, the Selectmen may impose a suspension of the agency license for any period of time up to four weeks and in addition to or in substitution therefor, may

impose a fine of \$200. For any fourth finding of any violation of any regulation within the preceding 12 months, the Selectmen may impose a revocation of the agency license for the balance of the licensing period.

## Chapter 119

### LITTERING

**119-1. Prohibited activity.**

**119-2. Violations and penalties.**

**[HISTORY: Adopted 3-14-67 Annual Town Meeting, approved 6-8-67. Amendments noted where applicable.]**

**119-1. Prohibited activity.**

No person shall throw, place or cause to be thrown or placed upon the street, roadway, sidewalk, beaches, parking areas or Edgartown Harbor any dirt, ashes, glass, tin cans, filth, rubbish, garbage or other litter or noxious material.

**119-2. Violations and penalties. [Added 6-22-82 STM, Art. 5, approved 10-11-82]**

Any person violating this chapter shall be punished by a fine of not more than one hundred dollars (\$100.) for each offense.

## Chapter 125

### MILK

**125-1. Statutory restriction of duties.**

**125-2. Ear tags for bovines.**

**125-3. Maintenance of bovines.**

**125-4. Raw milk and cream standards.**

**125-5. Containers.**

**125-6. Access for inspections.**

**[HISTORY: Adopted as Ch. IX of the 1983 compilation of bylaws, approved 3-10-24. Amendments noted where applicable.]**

**125-1. Statutory restriction of duties.**

The Inspector of Milk and Inspector of Animals shall be subject to the provisions of MGL C. 94, Sec. 33, and to other provisions of laws and bylaws of the Town of Edgartown defining the duties of an Inspector of Milk and of an Inspector of Animals; provided, however, that under this chapter his duties as Inspector of Animals shall be limited to the inspection of bovine animals and the buildings in which they are kept.

**125-2. Ear tags for bovines.**

No bovine animal shall be brought within the Town of Edgartown unless such animal is provided with an ear tag attached by the commonwealth or the United States Bureau of Animal Industry for purposes of identification and further, provided with a certificate furnished by the commonwealth or United States Bureau of Animal Industry certifying that said bovine animal has been tuberculin-tested and passed as healthy within ninety (90) days next preceding such entry; provided, however, that if such animal is a registered purebred bovine animal, the description contained in its certificate or registration shall establish the identity of such animal were not the ear tag attached to it.

**125-3. Maintenance of bovines.**

All bovine animals kept or maintained within the Town of Edgartown shall be placed under the supervision of the commonwealth or the United States Bureau of Animal Industry, or both, in accordance with the requirements for the maintenance of tuberculosis-free accredited herds.

**125-4. Raw milk and cream standards.**

All raw milk and cream sold, exchanged or exposed for sale in the Town of Edgartown shall be produced from cows under supervision as provided in Sec. 125-3 of this chapter and in apparent good physical condition and in barns or dairies that score less than sixty-five percent (65%) on the daily farm score card approved by the Commonwealth of Massachusetts and United States Department of Agriculture and certified as to the healthfulness of such cows and conditions of production by the Inspector of Milk and Inspector of Animals, pursuant to law and to this chapter;



provided, however, that milk and cream which have been effectively pasteurized in an approved pasteurizing machine shall not be deemed "raw" within the meaning of this chapter but shall be sold only when approved by the Board of Health.

**125-5. Containers.**

All liquid milk and cream intended for sale shall be delivered in containers which are clean and sterile, and such containers shall be securely sealed at the dairy or store and delivered to the purchaser without the removal of such seal.

**125-6. Access for inspections.**

The Inspector of Milk and Inspector of Animals shall have access to all premises in the performance of his official duties and shall inspect all dairies, barns and stores where milk and cream are sold at least once in each month.

## Chapter 131

### NOISE

**131-1. Prohibited activity.**

**131-2. Violations and penalties.**

**[HISTORY: Adopted 8-21-1986 Special Town Meeting, Art. 16, approved 10-16-1986. Amendments noted.]**

**131-1. Prohibited activity. [Amended 4-13-1999 ATM, Art. 13, approved 8-27-1999], Amended 4-12-2011 ATM**

It shall be unlawful for any person or persons occupying or having charge of or owning any building or premises or vehicle or any part thereof in the Town of Edgartown, other than that section of any establishment licensed under Chapter 138 of the General Laws, between the hours of 10:00 p.m. and 7:00 a.m. to cause or suffer to allow any unnecessary, loud, excessive or unusual noises plainly audible at a distance of 50 feet from a vehicle or premises from which it originates except July 4<sup>th</sup> and December 31<sup>st</sup> when the hours shall be 12 Midnight until 7:00 A.M.

**131-2. Violations and penalties.**

Violations under this bylaw shall be enforced by the Police Department. Such acts shall constitute prima facie evidence of a violation of this chapter. Penalties shall include: 1<sup>st</sup> offense: \$100.00, 2<sup>nd</sup> offense: \$200.00, 3<sup>rd</sup> offense: \$300.00 and any offense thereafter.

## Chapter 132

### CONSTRUCTION NOISE

#### 132-1. Construction Noise.

#### 132-2. Exemptions.

#### 132-3. Enforcement

**[HISTORY: [Adopted ATM 04-12-2011, Art. 14, Approved by A.G. 12-14-11] [Revised ATM 06-13-2020, Approved by A.G. 08-25-2020**

#### 132-1. Construction Noise

It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any loud noise related to non-public construction activities, as outlined below, between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturdays, which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health and safety of others within the Town. It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any loud noise related to non-public construction activities, as outlined below, between the hours of 5:00 p.m. and 8:00 a.m. on weekdays and Saturdays, in the R5 Zoning District between Memorial day and Labor Day, which either annoys, disturbs, injures or endangers the reasonable quiet, comfort, repose or the health and safety of others within the Town. Additionally, it shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary or unusually loud noise related to non-public construction activities as outlined below at any time on Sundays or the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

Construction shall mean those activities requiring a building permit, and shall also include any site preparation, earth removal, grading, assembly, erection, substantial repair, alteration or similar action, including demolition, for or of private streets, structures, utilities or similar non-public property. Construction noise shall be that noise generated by manual or mechanical activities associated with construction.

#### 132.2 Exemptions

- A. Noise associated with emergency work or emergency vehicles is exempt from the provisions of this bylaw. Emergency work shall mean any work performed in an effort to protect, provide, or restore public safety, or work by private or public utilities when restoring utility service. Emergency vehicles shall mean any vehicle operated in an effort to protect, provide, or restore public safety including, but not limited to, ambulances, police vehicles, and fire vehicles.
- B. Noise associated with construction activities undertaken with authorization of the Police Chief and/or Building Inspector in order to complete a project, which is in the public interest, in a timely and expeditious manner.

- C. Noise associated with Town snow removal, street sweeping, highway maintenance and cleaning is exempt for the provisions of this bylaw.
- D. This bylaw shall not apply to homeowners performing regular maintenance and tasks on their own property, including emergency repairs with professional assistance.

### **132.3 Enforcement**

Violations under this bylaw shall be enforced by the Police Department (with notice to the Building Inspector). Such acts shall constitute prima facie evidence of a violation of this chapter. Penalties shall include fines of: 1<sup>st</sup> offense: \$100.00, 2<sup>nd</sup> offense: \$200.00, and 3<sup>rd</sup> offense: \$300.00 and any offense thereafter. Any violation shall also entitle the Building Inspector to issue a cease and desist order or revoke the building permit.

## Chapter 135

### PARADES

- 135-1. Deadline for permit application.**
- 135-2. Contents of application.**
- 135-3. Submission to Chief of Police.**
- 135-4. Violations and penalties.**

**[HISTORY: Adopted 3-9-71 Annual Town Meeting, Art. 31, approved 6-11-71. Amendments noted where applicable.]**

**135-1. Deadline for permit application.**

Any person, firm or organization planning a parade in the Town of Edgartown shall apply for a parade permit no less than seventy-two (72) hours from the scheduled parade time.

**135-2. Contents of application.**

Said application shall contain the name, address and phone number of the person, firm or organization applying, along with the time and route and the approximate number of pedestrians, vehicles and animals expected to participate.

**135-3. Submission to Chief of Police.**

The application shall be made to the Chief of Police, and the Chief may suggest an alternate route.

**135-4. Violations and penalties.**

Any person violating this chapter shall be punished by a fine or not more than (\$50.) for each offense.

## Chapter 138

### PEACE AND GOOD ORDER

#### ARTICLE I

##### Miscellaneous Provisions

- 138-1. Camping or sleeping in open restricted.
- 138-2. Public profanity.
- 138-3. Peeping and spying.

#### ARTICLE II

##### Public Nudity

- 138-4. Prohibited activity.
- 138-5. Definitions.
- 138-6. Exceptions.
- 138-7. Violations and penalties.

#### ARTICLE III

##### Urinating in Public

- 138-8. Prohibited activity.
- 138-9. Prima facie evidence of violation.
- 138-10. Violations and penalties.

**[HISTORY: Art. I, adopted 3-9-71 Annual Town Meeting, Art. 31, approved 6-11-71; Art. II, adopted 12-2-76 Special Town Meeting, Art. 6, approved 3-29-77; Art. III, adopted 10-28-85 Special Town Meeting, Art. 2, approved 11-19-85. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Alcoholic beverages – See Ch. 63.  
Curfew – See Ch. 85.  
Dogs and other animals – See Ch. 88.  
Firearms – See Ch. 98.  
Littering – See Ch. 119.  
Noise – See Ch. 131.  
Parades – See Ch. 135.

ARTICLE I  
Miscellaneous Provisions  
[Adopted 3-9-71 ATM, Art. 31, approved 6-11-71]

**138-1. Camping or sleeping in open restricted.**

- A. No person shall, between the hours of 8:00 p.m. and 8:00 a.m. set up on any property, public or private, without the permission of the owner thereof a camp or a tent or sleep in the open on any property, public or private, within the limits of the Town of Edgartown.
- B. Any person violating this Article shall be punished by a fine of not more than fifty dollars (\$50.) for each offense.

**138-2. Public Profanity.**

- A. No person shall, in any street or other public place, accost or address another person with profane or obscene language.
- B. Any person violating this Article shall be punished by a fine or not more than fifty dollars (\$50.) for each offense.

**138-3. Peeping and spying.**

- A. No person shall enter upon the premises of another with the intention of peeping into windows of a house or other building or spyingS in any manner upon any person or persons therein.
- B. Any person violating this Article shall be punished by a fine or not more than fifty dollars (\$50.) for each offense.

ARTICLE II  
**Public Nudity**  
[Adopted 12-2-76 STM, Art. 6, approved 3-29-77]

**138-4. Prohibited activity.**

Public nudity, including public nude bathing, by any person in a public way, a public place or a place to which the public customarily has access, on land or water, within the boundaries of the Town of Edgartown is prohibited.

**138-5. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

PUBLIC NUDITY – A person’s intentional exposure or failure to cover with a fully opaque covering that person’s own genitals, pubic areas, rectal area or female breasts when in a public way, a public place or a place to which the public customarily has access, said exposure or failure to cover occurring in the presence of one (1) or more persons.

**138-6. Exceptions.**

This Article shall not apply to a person under ten (10) years of age.

**138-7. Violations and penalties.**

Violations of this Article shall be punished by a fine not to exceed fifty dollars (\$50.).

ARTICLE III

**Urinating in Public**

**[Adopted 10-28-85 STM, Art. 2, approved 11-19-85]**

**138-8. Prohibited activity.**

It shall be unlawful for any person to urinate in public or on private property where the public is reasonably able to view or occupy.

**138-9. Prima facie evidence of violation.**

It is not enough that such an act is out of public view. The fact that the act has taken place in an area as described in Sec. 138-8 is prima facie evidence that the violation has taken place.

**138-10. Violations and penalties.**

Violations of this Article shall be punished by a fine not to exceed fifty dollars (\$50.).

**138-11. Plastic Bottle Ban**

Section 1: Regulated Conduct

1.1 It shall be unlawful to sell or distribute (a) non-carbonated, unflavored water, and (b) soft drinks in plastic (including polyethylene terephthalate – PET) bottles of less than 34 ounces in the Town of Edgartown. For the purposes of this bylaw, ‘soft drink’ means any beverage containing carbonated water with a sweetener (including fruit juice) and/or a flavoring.

1.2 Sales or distribution of drinking water in plastic bottles occurring subsequent to a declaration (by the Emergency Management Director or other duly authorized Town, County, Commonwealth or Federal official) of an emergency affecting the availability and/or quality of drinking water to residents of the Town shall be exempt from this bylaw until seven days after the declaration has ended.

Section 2: Enforcement Process and Violations

2.1 Enforcement of this Bylaw shall be the responsibility of the Board of Selectmen or its designee(s). The Board of Selectmen shall determine the inspection process and shall incorporate the process into other Town duties as appropriate.

2.2 Any person, individually or by his servant or agent, who violates any provision of this Bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town’s non-criminal disposition Bylaw. The following penalties apply:

- first violation: written warning
- second violation: \$50 fine
- third and subsequent violations: \$100 fine
  - Each day the violation continues constitutes a separate violation.



### Section 3. Suspension of the Bylaw

3.1 If the Board of Selectmen determines that the cost of implementing and enforcing this bylaw has become unreasonable, they shall conduct a Public Hearing to inform the citizens of such costs. Subsequent to the Public Hearing, the Board of Selectmen may continue this Bylaw in force or may suspend it permanently or for such length of time as they may determine.

### Section 4: Effective Date

4.1 This Bylaw takes effect on April 1, 2023.  
**(Adopted 04-12-2022 ATM, Approved by AG 08-01-2022)**

#### **Chapter 141**

##### **Motorized vehicles**

**(Approved STM , 10-29-01, Article 4, approved 2/26/02)**

**141-1.** No person shall operate a motorized scooter, motorized skateboard, or other similar motorized motor vehicle on any public way, bicycle path, sidewalk, playground, or on any other property owned in the Town of Edgartown. The following vehicles shall be exempt from the provisions of this Bylaw:

- a) Vehicles licensed as motor vehicles
- b) Vehicles used by handicapped persons, and
- c) Landscaping equipment.

Any person violating the provisions of this Bylaw shall be punished by a fine of one hundred dollars (\$100.00).

## Chapter 142

### RECREATIONAL VEHICLES

- 142-1. Areas of prohibited use.**
- 142-2. Definitions.**
- 142-3. Operation in designated areas only.**
- 142-4. Exemptions.**
- 142-5. Violations and penalties.**

[HISTORY: Adopted 6-17-85 Special Town Meeting, Art. 30, approved 8-19-85. Amendments noted where applicable.]

#### GENERAL REFERENCES

Wetlands – See Ch. 169.

- 142-1. Areas of prohibited use.**  
No person shall operate a recreational vehicle on any town-owned or -maintained property.
- 142-2. Definitions.**  
As used in this chapter, the following terms shall have the meanings indicated:
  - DESIGNATED AREA – That area of town-owned or -maintained property where the office of the Board of Selectmen allows operation of legally registered motor vehicles.
  - RECREATIONAL VEHICLE – Any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in MGL C. 90B, Sec. 20.
- 142-3. Operation in designated areas only.**  
No person shall operate a legally registered vehicle on any town-owned or -maintained property other than designated areas.
- 142-4. Exemptions.**  
Town-owned vehicles or vehicles operated by town, county or state employees in the performance of their duties are exempt.
- 142-5. Violations and penalties.**  
Any person who violates any provision of this chapter shall be punished by a fine of not more than fifty dollars (\$50.).

## Chapter 143

### ROLLER SKATES, SKATEBOARDS, AND IN-LINE SKATES

**143-1. Use prohibited in certain locations.**

**143-2. Violations and penalties.**

**[HISTORY: Adopted 10-8-1992 Special Town Meeting, Art. 8, approved 1-14-1993. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Bicycles – See Ch. 69.

**142-1. Use prohibited in certain locations.**

No person shall use roller skates, skateboards and in-line roller blades on the following streets or their adjacent sidewalks within the Town of Edgartown from May 1 to September 30:

- A. Main Street from Pease's Point Way to Lower Main Street, including Dock Street.
- B. School Street from Main Street to Cooke Street.
- C. South Summer Street from Main Street to Cooke Street.
- D. South Water Street from Main Street to Cooke Street.
- E. Church Street.
- F. Winter Street from North Water Street to Pease's Point Way.
- G. North Water Street from Main Street to Simpson's Lane.
- H. North Summer Street from Main Street to Simpson's Lane.
- I. Mayhew Lane.
- J. Kelly Street.
- K. Daggett Street.
- L. Memorial Wharf parking lot, foot of Main Street parking lot, Mayhew Lane parking lot, Town Hall parking lot and Old Post Office parking lot.

**143-2. Violations and penalties.**

Whoever violates any of the provisions of this chapter shall be subject to a fine of not more than twenty dollars (\$20.) for each offense.

## Chapter 144

### Establishment of 25-miles-per-hour speed limit in thickly settled or business district

Art. 52 06-13-2020 Annual Town Meeting **voted that the Town accept the provisions of Section 17C of Chapter 90 of the General Laws:** Establishment of 25-miles-per-hour speed limit in thickly settled or business district in city or town; violation

Section 17C. (a) Notwithstanding section 17 or any other general or special law to the contrary, the city council, the transportation commissioner of the city of Boston, the board of selectmen, park commissioners, a traffic commission or traffic director of a city or town that accepts this section in the manner provided in section 4 of chapter 4 may, in the interests of

public safety and without further authority, establish a speed limit of 25 miles per hour on any roadway inside a thickly settled or business district in the city or town on any way that is not a state highway.

(b) Upon establishing a speed limit under this section, the city or town shall notify the department. The operation of a motor vehicle at a speed in excess of a speed limit established under this section shall be a violation of section 17.

## Chapter 145

### SEWERS

- 145-1. Apportionment of assessments.**
- 145-2. Requirements pertaining to subdivisions.**
- 145-3. Separation of general and special benefit sewerage systems.**

**[HISTORY: Adopted 6-16-1977 Special Town Meeting, Art. 6, approved 9-16-1977. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Sewer Commission – See Ch. 50.

**145-1. Apportionment of assessments.**

In ways, accepted or private, the persons receiving benefit from the installation of a common sewer line shall pay a proportionate assessment of the cost thereof as ascertained, assessed and certified by the Board of Sewer Commissioners<sup>9</sup> pursuant to the provisions of Chapter 83, and any amendments thereto, of the General Laws. In no case shall such assessment exceed the benefit or advantage received by the person or persons so assessed.

**145-2. Requirements pertaining to subdivisions.**

Nothing in this chapter shall be construed to restrict or abrogate the power of the Planning Board to require the construction or installation of municipal improvements in ways shown on subdivision plans under the control of the Planning Board at the sole expense of the subdivision developer, and no assessment shall be made under this chapter on account of any improvement so constructed or stalled by a developer at his sole expense.

**145-3. Separation of general and special benefit sewerage systems. [Added 4-13-1994 ATM, Art. 62, approved 8-12-1994]**

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<sup>9</sup> Editor's Note: Article 51, 4-15-1988 ATM, provided as follows: "Moved that the town vote to change the name of the Edgartown Sewer Commission to the Edgartown Wastewater Commission."

Pursuant to MGL C. 83, Sec. 15, relating to sewerage systems, the costs of general benefit facilities, including but not limited to pumping stations, trucks and force mains, shall be separated from that of special benefit facilities, including but not limited to the sewer mains, serving adjacent properties.

## Chapter 144

### ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICES (Approved ATM Article 28, 04-13-10)

- 144-1. Electric Personal Assistive Mobility Devices.
  - 144-2. Prohibited; absent grant of written permission or exemption.
  - 144-3. Conditions; grant of written permission.
  - 144-4. Enforcement and penalties.
- 
- 144-1. Electric Personal Assistive Mobility Devices.

#### **Definitions and interpretation.**

AUTHORIZING OFFICIAL- The chief of police or his/her respective designee for the Town of Edgartown, Massachusetts.

BOARD OF SELECTMEN OR BOARD- The Board of Selectmen for the Town of Edgartown, Massachusetts.

COMMONWEALTH- The Commonwealth of Massachusetts and any governmental Subdivision thereof.

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE - A non-tandem, two-wheeled or three-wheeled self-balancing device, with an electric propulsion system that transports only one person, and travel less than 12.5 miles per hour. The term "Electric Personal Assistive Mobility Device" shall hereinafter be referred to as "EPAMD"; and shall not be construed to include any similar device used to provide transportation of a disabled person.

GOVERNMENTAL AGENCY- Any governmental subdivision of: the Town of Edgartown, Massachusetts; the Commonwealth of Massachusetts; the County of Dukes County; or the Federal government.

LAW OR REGULATION - The regulations, laws, and by-laws of the Town of Edgartown; the Commonwealth of Massachusetts; or the Federal government.

OFFICER -A police officer, special police officer or traffic officer appointed by the Town or the Commonwealth.

TOWN - The Town of Edgartown, Massachusetts and any governmental Subdivision thereof.

#### **144.2 Prohibited; absent grant of written permission or exemption.**

No person shall operate an EPAMD on a Town-owned or Town-controlled public way, bicycle path, sidewalk, park, or playground without a grant of written permission from the authorizing official. The following operation of an EPAMD shall be exempt from this by-law:

- A. The use of an EPAMD by personnel of a governmental agency when performing a service to the public; or
- B. The use of an EPAMD by a disabled person.

**144.3 Conditions; grant of written permission.**

A person may petition the Town, on a document approved by the authorizing official, for a grant of written permission to use and operate an EPAMD within the Town. Any person approved by the authorizing official shall be issued a grant of written permission within seven-days, at a cost and duration as determined by the Town. A grant of written permission shall be produced upon the request of an officer and shall not be transferable.

Any grant, of written permission for an EPAMD issued by the authorizing official, shall include the following conditions or restrictions: An EPAMD shall not be operated by a person on any Town-owned or Town-controlled public way, bicycle path, sidewalk, park, or playground:

- A. Without being in possession of a valid driver's license or learner's permit;
- B. Without wearing protective headgear conforming to the minimum standards and construction as the Commonwealth may prescribe;
- C. Without having operational stop and turn signals on an EPAMD;
- D. By not keeping to right side at all times on a public way, bicycle path, or sidewalk; except upon a public way when passing a motor vehicle which is stopped or moving within the same travel lane;
- E. At any time after sunset or before sunrise; and
- F. In such a manner as to endanger the lives and safety of the public.

The authorizing official may impose other such conditions or restrictions as deemed appropriate or necessary to protect the safety of the public; and a person operating an EPAMD pursuant to a grant of written permission, shall comply with the conditions and restrictions referenced herein or imposed by the authorizing official.

If the authorizing official finds a reason for denial, the petitioning person shall be notified in writing for the reason(s) of denial within seven-days by said official. A person denied a grant of written permission may request a hearing within thirty-days before the board of selectmen.

**144-4. Enforcement and penalties.**

Any violation of this chapter may be enforced by non-criminal disposition by an officer as provided by MGL c. 40, § 21D, or Town by-law by fine of \$50 dollars for the first offense or by a fine of \$100 dollars for a second or subsequent offense.

In addition to any other enforcement or penalty allowed by law or regulation, a grant of written permission may be suspended or revoked by the board of selectmen, after a public hearing, if the board determines the person issued such grant has violated any condition or restriction, or no longer meets the terms of the

grant. Upon any suspension or revocation, within thirty-days, the board shall notify the person in writing for the reason(s) of any such action.



**Chapter 150**

**STREETS AND SIDEWALKS**

**ARTICLE I**

**Miscellaneous Provisions**

- 150.1** Obstruction or breaking of public ways.
- 150.2** Obstruction of free movement.
- 150.3** Keeping to right of road.

**ARTICLE II**

**Use of Public Ways**

- 150.4** Placement of objects upon sidewalks.
- 150.5** Occupation of streets for construction or demolition of buildings.
- 150.6** Permits for moving of buildings.

**ARTICLE III**

**Town Snow Removal on Private Ways**

- 150.7** Authority.
- 150.8** Conditions.

**ARTICLE IV**

**Layout and Acceptance of Ways**

- 150.9** Conditions for acceptance.
- 150.10** Formula of cost.

**ARTICLE V**

**Snow and Ice Removal**

- 150.11** Removal of snow after snowfall.
- 150.12** Removal of snow fallen from buildings and drifting snow.
- 150.13** Removal of ice.
- 150.14** Depositing snow or ice in public way or sidewalk.
- 150.15** Violations and penalties.

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

**ARTICLE I**

**Miscellaneous Provisions**

**[Adopted as Ch. VII, Secs. 1, 3 and 4 of the 1983 compilation, approved 3-23-1922, 3-7-1924 and 6-8-1967]**

**150-1. Obstruction or breaking of public ways.**

No person except officers of the Town in the lawful performance of their duties and those acting under their orders shall obstruct any sidewalk or street or any part thereof or break or dig the ground of the same without first obtaining a written license from the Superintendent of Streets.

**150-2. Obstruction of free movement.**

No person shall obstruct a street, sidewalk or doorway so as to impede the free flow of pedestrian or vehicular traffic after having been ordered to remove his person or any object causing such obstruction by a constable or police officer of the Town.

**150-3. Keeping to right of road.**

All vehicles using a traveled way within the Town upon which white traffic lines are painted or placed shall keep to the right of such lines. Any violation of this section shall be punishable by a fine not to exceed the sum of \$10 for each offense.

ARTICLE II

**Use of Public Ways**

**[Adopted 3-7-1922 ATM, approved 3-23-1922]**

**150-4. Placement of objects upon sidewalks.**

No person shall place or cause to be placed upon any sidewalk any coal, bale, box, truck, crate, barrel, garbage can, package or anything so as to obstruct the same for more than 15 minutes after being notified by a constable or police officer or Selectman to move it.

**150-5. Occupation of streets for construction or demolition of buildings.**

- A. Any person intending to erect, repair or take down or move any building on land abutting on any street or way which the Town is required to keep in repair and who desires to make use of any portion of said street or way for the purpose of placing therein building material or rubbish shall give notice thereon to the Selectmen.
- B. The Selectmen may grant a permit to occupy a portion of said street or way, and such permit shall be upon the condition that the licensee shall keep a sufficient number of lighted lanterns at or near the parts of the street or way obstructed or unsafe and shall keep a railing or guard around same while such obstruction shall continue.
- C. If such obstruction is more than a temporary condition, the licensee shall place a good temporary walk around said obstruction and at the completion of work shall restore the street or the way to its former condition.
- D. Before issuance of a license as specified under this section, the person applying for the same shall execute a written agreement to indemnify and save harmless the Town against and from all damages by reason of any claim for damages or by reason of any proceeding, criminal or civil, on account of the existence of such obstruction or excavation.

**150-6. Permits for moving of buildings.**

The Selectmen shall not grant a permit for the moving of a building upon the street or ways of the Town when such moving will result in the mutilation of or damage to any of the shade trees situated on the public ways of the Town.

ARTICLE III

**Town Snow Removal on Private Ways**

**[Adopted 4-11-1978 ATM, Art. 27, approved 9-5-1978]**

**150-7. Authority.**

The Town, under the direction of the Street Superintendent, may make temporary minor repairs on private ways which have been opened to public use for six years or more.

**150-8. Conditions.**

- A. Such repairs shall not be undertaken unless the Board of Selectmen declares that they are required by public necessity and convenience.
- B. Said temporary minor repairs shall only include the filling in of holes or depressions with sand, gravel or other suitable materials, with no drainage provided, as well as the grading of the same.
- C. Such repairs shall be made only if petitioned by 75% of the abutters living along the private way. No betterment charges shall be assessed, nor shall a deposit for any work be required.
- D. Said temporary repairs shall not be undertaken unless the Selectmen have in their possession agreements executed by all abutting owners to release and save harmless on account of any damage whatever caused by such snow removal or such repairs. Such agreements to release and save harmless, being recorded in the Registry of Deeds, shall be deemed to be covenants running with the land and shall be binding upon all subsequent owners thereof.

ARTICLE IV

**Layout and Acceptance of Ways**

**[Adopted 4-8-1980 ATM, Art. 21, approved 7-31-1980]**

**150-9. Conditions for acceptance.**

The layout and acceptance of any private way shall be in accordance with the provisions of Chapters 80 and 82 of the General Laws of the Commonwealth of Massachusetts, but the Selectmen shall not submit an Article for the acceptance of a road layout to the Town Meeting unless the abutters owning collectively at least 75% of the linear footage fronting the way have agreed to accept the estimate of costs to be apportioned to each abutter or unless the Selectmen shall determine by a unanimous vote of their Board that a compelling public need exists for acceptance of a particular way. No betterments shall be assessed until after acceptance of a road layout by the Town.

**150-10. Formula of cost.**

The formula of cost apportionment shall be as follows: 60% of the total cost shall be apportioned to the owners of lots abutting the way, and the remaining 40% shall be borne by the Town. The individual abutters' share of the total cost not borne by the Town shall be apportioned to them at a rate determined by the ratio between the amount of front footage owned by them and the total amount of footage abutting the way.

ARTICLE V

**Snow and Ice Removal**

**[Adopted 4-8-1997 ATM, Art. 51]**

**150-11. Removal of snow after snowfall.**

The tenant or occupant, and in the case where there is no tenant or occupant, the owner or persons having the care of any estate abutting upon any street, lane, court or square within the Town where there is a sidewalk which is or may hereafter be established or set apart by the Town as such, shall, after the ceasing to fall any snow thereon within 24 hours cause the same to be removed therefrom.

**150-12. Removal of snow fallen from buildings and drifting snow.**

Whenever any snow shall be collected or deposited upon any sidewalk mentioned in Sec. 150-11, either by falling from an adjoining building or by drifting upon said sidewalk, the tenant or occupant, and in the case where there is no tenant or occupant, the owner or person having the care of the estate abutting upon said sidewalk shall, within 24 hours after it being so collected or deposited, cause the same to be removed therefrom.

**150-13. Removal of ice.**

Whenever any sidewalk mentioned in Sec. 150-11 shall be encumbered with ice, it shall be the duty of the tenant or occupant, and in the case where there is no tenant or occupant, the owner or person having the care of the estate, to cause such sidewalk to be made safe and convenient for travel by removing the ice therefrom within 24 hours after such sidewalk shall have become so encumbered.

**150-14. Depositing snow or ice in public way or sidewalk.**

No snow or ice shall be deposited on any public street or sidewalk from any parking lot, business or residential driveway once the street or sidewalk has been plowed by the Highway Department. No snow shall be plowed across any public way by any private plow to deposit snow from one property to another. No snow shall be deposited in such a way as to obstruct the operation of any fire hydrant.

**150-15. Violations and penalties.**

Violations of this article shall be punished by fine not in excess of \$50.

## Chapter 153

### SWIMMING POOLS

**153-1. Enclosure of outdoor, in-ground swimming pools required.**

**153-2. Violations and penalties.**

**[HISTORY: Adopted 4-12-1994 Annual Town Meeting, Art. 28, approved 8-12-1994. Amendments noted where applicable.]**

**153-1. Enclosure of outdoor, in-ground swimming pools required.**

All outdoor, in-ground swimming pools shall be enclosed by a fence four (4) feet in height and firmly secured at ground level; such enclosure, including gates therein, shall not be less than four (4) feet above the ground, and any gate shall be self-latching with latches placed four (4) feet above the ground or otherwise made inaccessible from the outside to children up to eight (8) years of age. Such enclosure shall be constructed of such material and maintained so as not to permit any opening of said enclosure, other than a gate, wider than three (3) inches at any point along the enclosure, or some other effective alternative device(s), acceptable to the Board of Health, which impedes access to persons under eight (8) years of age. Any such pool shall be equipped with at least one (1) life ring and a rescue hook.

**153-2. Violations and penalties.**

Any owner of an outdoor, in-ground swimming pool who fails to comply with the provisions of this chapter, after notice, shall be punished by a fine of not more than twenty-five dollars (\$25.) for each offense.

## Chapter 157

### TAXICABS

- 157-1. License authority; records.**
- 157-2. License required.**
- 157-3. Rates of fare.**
- 157-4. Taxi Rules and Regulations (Adopted by the Board of Selectmen on June 20, 2005 and amended on June 15, 2015)**

**[HISTORY: Adopted 2-8-49 Annual Town Meeting, Art. 62, approved 6-16-49. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Vehicles and traffic – See Ch. 188.

- 157-1. License authority; records.**

The Selectmen shall, from time to time, grant licenses to such persons to set up, employ, operate and use any hackney or livery vehicle for the purpose of conveying passengers or baggage for hire from place to place within the town, and a record of all licenses so granted and the revocation thereof shall be kept by the Selectmen.
- 157-2. License required.**

No person shall set up, employ, operate or use any hackney or livery vehicle for the purpose of conveying passengers or baggage for hire within the limits of the town without a license from the Selectmen.
- 157-3. Rates of fare.**

The rates of fare for the conveyance of passengers or baggage within the limits of the town shall not exceed a schedule of rates fixed by the Selectmen.
- 157-4. Taxi Rules and Regulations**

#### **ARTICLE 1. PREAMBLE**

In the Town of Edgartown, no person, business, or corporation driving or having charge of a taxicab, transportation network company vehicle, or other private vehicle shall, unless licensed by the Town to perform such service, offer a vehicle for hire with the intent to transport a passenger or goods.

The Board of Selectmen shall have the exclusive authority to determine the number of taxicab businesses to license in the Town and the number of taxicab vehicles licensed to each business. Such determination shall be based upon serving the needs and convenience of the public and in the best interest of the Town.

**ARTICLE II. EXCEPTIONS**

Nothing herein contained shall be construed as prohibiting a driver of a taxicab, transportation network company vehicle, or other private vehicle, licensed to perform such service within the County of Dukes County or by the Commonwealth, from driving through the Town of Edgartown or from accepting passengers or goods if summoned at the request of such passenger or client, by means of a telephone or radio dispatch from their principal place of business.

**ARTICLE III. AUTHORITY**

The Board of Selectmen as authorized pursuant to Section 22 of Chapter 40 of Massachusetts General Law may approve the adoption of regulations relative to the licensing and operation of taxicab, transportation network company, or other private vehicle services in Edgartown; and may, after providing public notice, conduct hearings to amend the regulations. Any such amendments shall not take effect until published or posted in accordance with law.

**ARTICLE IV. PUBLIC ACCOMMODATION**

As a place of public accommodation, a taxicab, transportation network company, or other private vehicle business licensed by the Town shall reasonably afford full and equal accommodations, advantages, facilities and privileges to all persons, subject only to the conditions and limitations established by law.

Any act of adverse treatment, distinction, discrimination, or restriction because of a person’s race, color, religious creed, national origin, sex, sexual orientation, physical disability, or mental disability, shall be deemed an unlawful act of discrimination.

**ARTICLE V. SAVING PROVISION**

If any provision of this regulation shall be declared unconstitutional, the validity of its remaining provisions shall not be affected thereby.

**ARTICLE VI. TERMINOLOGY**

“COMPLY WITH”: To meet one or more terms stated in the regulations.

“IF” OR “IF...THEN”: Applicable to the associated conditions described.

“MAY”: An option or alternative.

“SHALL”: A mandated requirement.

“SHOULD”: An advisory or recommendation.

**ARTICLE VII. DEFINITIONS**

“APPLICANT”: Any person, partnership, or corporation who petitions the Town, on a document approved by the Board, for the licensing of a taxicab, transportation network company, or other private vehicle business; a taxicab, transportation network company, or other private vehicle, or a license to operate a taxicab, transportation network company, or other private vehicle.

“APPLICATION” OR “DOCUMENT” OR “LICENSE”: An official document approved by the Board and used for the purposes of licensing a taxicab, transportation network company, or other private business, a taxicab, transportation network company, or other private vehicle, or a taxicab, transportation network company, or other private vehicle driver.

“BOARD” OR “SELECTMEN”: The Board of Selectmen for the Town of Edgartown.

“COMMONWEALTH”: The Commonwealth of Massachusetts and any governmental subdivisions thereof.

“CRIMINAL OFFENDER RECORD”: The record of an applicant’s criminal history.

“DRIVER HISTORY RECORD”: A record of the applicant’s motor vehicle operating history.

“DUTY SHIFT”: A period of time when a person begins or is required to be in readiness for work as a taxicab, transportation network company, or other private vehicle driver and when the person is relieved from all responsibilities of such work. The preceding words and terms as used in this part are also construed to mean the driving time spent by a driver at the controls of a taxicab, transportation network company, or private vehicle in operation.

“GOVERNMENTAL AGENCY” OR “AGENCIES”: Any subdivision of the Town of Edgartown; the Commonwealth of Massachusetts; or the federal government.

“LAW” OR “REGULATIONS”: The regulations and by-laws of the Town of Edgartown; the regulations and laws of the Commonwealth of Massachusetts; or regulations and laws of the federal government.

“LOCAL FARE”: A passenger or goods from one destination to another within the Town of Edgartown.

“LICENSED DRIVER” OR “DRIVER”: Any person licensed to operate a taxicab, transportation network company, or other private vehicle by the Police Department.

“LICENSED OWNER” OR “BUSINESS” OR “OWNER”: Any person, partnership, or corporation licensed by the Board to own and/or operate a taxicab, transportation network company, or other private vehicle business.

“LICENSING FEE”: A fee collected by the Town, in an amount determined by the Board, which is assessed annually for the licensing of a taxicab, transportation network company, or other private vehicle business, a taxicab, transportation network company, or other private vehicle or a taxicab, transportation network company, or private vehicle driver.

“PASSENGER”: A person or persons who hires or attempts to hire a taxicab or has a pre-arranged ride for transportation.



Authorized Taxicab Stands		
Location	Number	Hours
Yacht Club Lot	4	Unlimited
Mayhew Lane	1	6:00 PM – 2:00 AM
Colonial Inn	1	6:00 PM – 2:00 AM
	1	6:00 PM – 2:00 AM
South Water St.	1	6:00 PM – 8:00 AM
South Summer St.	1	6:00 PM – 2:00 AM

“POLICE DEPARTMENT”: The Edgartown Police Department and the police officers thereof.

“PREARRANGED RIDE” a period of time that begins when a transportation network driver accepts a requested ride through a digital network, continues while said driver transports the transportation network company rider, and ends when said rider departs from the vehicle. “OFFICER”: A duly authorized police officer, special officer, or traffic officer.

“RATES” OR “RATES OF FARE”: The compensation schedule for taxi, transportation network company, or other private vehicle service approved by the Board.

“RATE CARD”: A card issued by the Board which displays the taxicab’s, transportation network company, or other private vehicle’s company name, rates of fare and any other data the Board or Police Department should require.

“REASONABLE” OR “REASONABLY”: A factual basis of knowledge upon which a reasonable person might deem proper to conclude.

“SUBSTANCE ABUSE”: Any use of illegal drugs or abuse of prescription drugs or any excessive use of an alcoholic beverage.

“TAXI” OR “TAXICAB” OR “VEHICLE”: A motor vehicle, having a certificate of registration issued by the Commonwealth in the name of a taxicab business as a taxicab, a vehicle that is used by a transportation network driver to provide transportation network services, or other private vehicle which is licensed by the Town for use in the conveyance of persons or goods for hire from place to place.

“TAXICAB OR OTHER VEHICLE CAPACITY”: The seating capacity of a taxicab as determined by the manufacturer’s specifications listed for the vehicle; or unless otherwise prohibited by the Commonwealth or the Town.

“TOWN”: The Town of Edgartown, Massachusetts and any governmental subdivisions thereof.

“TRANSPORTATION NETWORK COMPANY” a corporation partnership, sole proprietorship or other entity, operation in the Commonwealth that uses a digital network to connect riders to drivers for the purposes of pre-arranging and providing transportation.

“TRANSPORTATION NETWORK DRIVER” a driver certified by a transportation network company.

“TRANSPORTATION NETWORK RIDER” a passenger in a pre-arranged ride provided by a transportation network drive, provided that the passenger personally arranged the ride or an arrangement was made on his or her behalf.

“TRIP RECORD”: A document maintained daily by the licensed owner setting forth the origin and destination of each trip, fare paid, starting and completion time of the trip, the driver’s name, the license plate number or other designation to identify the vehicle, and other entries required by the Board or Police Department.

“WAY”: Any public or private road or highway or any way dedicated for public use or any road which the public has the right to use as invitees or licensees; or as otherwise defined by section 1 of chapter 90 of the Massachusetts General Laws.

<b>SECTION 1.0</b>	<b>BUSINESS; APPLICATION FOR LICENSE TO TRANSPORT PERSONS</b>
<b>SECTION 1.1</b>	<b>APPLICATION FILING.</b> An application for the licensing of a business to transport persons in the Town shall be filed with the office of the Board.
<b>SECTION 1.2</b>	<b>MINIMUM AGE &amp; CITIZENSHIP.</b> An applicant shall have attained the age of twenty-one (21) years; and such applicant shall be a citizen or a resident alien of the United States.
<b>SECTION 1.3</b>	<b>PARTNERSHIPS OR CORP-ORATIONS.</b> A partnership or corporation shall file with the application, a certified copy of the partnership certificate or certificate of incorporation; and shall have one officer or member of the corporation or partnership who has attained the age of twenty-one (21) years.
<b>SECTION 1.4</b>	<b>REPUTE AND QUALIFICATIONS OF APPLICANT.</b> An applicant shall demonstrate to the satisfaction of the Board, reasonable grounds that they are of good repute as to their morals and character; and that such applicant is qualified to assume the duties and obligations of a business owner.
<b>SECTION 1.5</b>	<b>CRIMINAL OFFENDER AND DRIVER HISTORY RECORDS CHECK.</b> The Board shall conduct an inquiry of any criminal or driver history record, which may disqualify the applicant from acquiring such license.

- SECTION 1.6** APPLICANT COMPLIANCE. The applicant shall agree to comply with the licensing assessment process as stated in the regulations or as required by the Board.
- SECTION 1.7** STATEMENT OF COMPLIANCE. A document executed by the applicant indicating the receipt, understanding and intent to comply with the regulations.
- SECTION 1.8** VEHICLES TO BE LICENSED. The Board shall specify the number of vehicles to be licensed.
- SECTION 1.9** ASSESSMENT OF APPLICANT. An assessment of the applicant, relevant to the matter of licensing of a business owner, shall be conducted by the Police Department, who shall report to the Board.
- SECTION 1.10** FALSIFIED INFORMATION. Any falsification of information contained in an original or renewal application for a license or any failure to notify the Board of any material change in the information contained therein shall be cause for denial of such application or the immediate revocation or suspension of such license.
- SECTION 1.11** PUBLIC HEARING. An applicant for the licensing of a business to transport persons shall appear, after receipt of notice, at a public hearing conducted by the Board. The Board shall determine if the current number of businesses licensed by the Town is sufficient to serve the need and convenience of the public. The Board shall notify licensed owners of the date, time, and reason for such hearing.
- SECTION 1.12** APPROVAL OF APPLICANT. An applicant, granted approval by the Board to be licensed as a business to transport persons, shall be licensed by the terms and conditions of the regulations stated herein.
- SECTION 1.13** DENIAL OF APPLICANT. Should the Board deny the issuance of a business to transport persons license to an applicant, then the Board shall notify the applicant within 30 days and specify in writing the reason for such denial.

<b>SECTION 2.0</b>	LICENSED BUSINESS TO TRANSPORT PERSONS; CONDITIONS OF LICENSE
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- SECTION 2.1** BUSINESS TO TRANSPORT PERSONS LICENSE; EXPIRATION AND ANNUAL FEE. The license of a business owner shall expire annually on April 30th. Within 30 days of said expiration, an owner shall make an application to renew said license, and shall make payment of the licensing fee. The renewal and issuance of said license shall be granted upon the same terms and conditions as the preceding license. An owner who fails to comply with this section shall forfeit their right to operate as a business licensed by the Town.

- SECTION 2.2** OWNER; DRIVER'S LICENSE REQUIRED. An owner, or if the owner is a partnership or corporation, then at least one (1) partner or shareholder shall be licensed by the registrar of motor vehicles to operate a motor vehicle, and shall be licensed by the Town as a driver. The Board may waive this requirement for single owners who are disabled, infirmed or otherwise restricted from obtaining a driver's license.
- SECTION 2.3** TAX COMPLIANCE. All business license holders shall comply with Massachusetts General Law, Chapter 62C Section 49A, which states that they have complied with all laws of the Commonwealth relating to taxes, prior to receiving their license renewal from the Board.
- SECTION 2.4** BUSINESS LICENSE; TRANSFER AND SALE. The approval or denial by the Board of the surrender and transfer of a business license to another person, partnership or corporation, shall be made as set forth in Section 1.0 of the regulations. Upon the Board's approval of such transfer, the applicant shall make payment of the annual business and licensing fees. An owner who has surrendered and transferred their business license to another person, partnership or corporation, shall not be entitled to any prorated rebate of the annual fees paid.
- SECTION 2.5** ISSUANCE OF VEHICLE LICENSE. No business shall operate any vehicle unless such vehicle is licensed by the Town as a vehicle to transport persons. Prior to the issuance of any such license by the office of the Board, the licensed owner shall, make payment of the licensing fee, produce a valid certificate of registration for the vehicle, and provide an affidavit of insurance coverage validating the terms of liability for the vehicle to be licensed.
- SECTION 2.6** STOLEN LICENSE TO OPERATE A BUSINESS OR DRIVER'S LICENSE. An owner shall notify the Board and the Police Department within forty-eight (48) hours of the loss, theft or destruction of a license, driver's license or rate card issued by the Board.
- SECTION 2.7** UTILIZATION OF VEHICLES LICENSED. Business owners are expected to utilize all vehicles licensed by the Board. The failure of an owner to maintain the registration of a licensed vehicles for a minimum of 60 concurrent days, between the period from June 15 and ending September 15, shall have deemed in the succeeding year to forfeit their right to renew the license of said vehicle or a replacement vehicle as provided in Section 2.5.
- SECTION 2.8** ADDITIONAL VEHICLE LICENSES; APPLICATION. A business owner may make an application to the office of the Board for the licensing of additional vehicles. Any such applicant shall appear, after receipt of notice, at a public hearing conducted by the Board. The applicant shall demonstrate that such additional

vehicles are necessary to meet the demands of their service, or are necessary to remain competitive with other licensed businesses. The Board shall notify the other licensed owners of the date, time, and reason for such hearing.

**SECTION 2.9** BUSINESS LICENSE; SUSPENSION OR REVOCATION. If at any time the Board becomes aware of information that a business owner no longer meets the terms of the regulations, then the Board, after a public hearing, may suspend or revoke the business license, or take any action thereof. The Board shall specify in writing, the reason for the suspension or revocation, to such owner.

**SECTION 2.10** BUSINESS OWNER; LICENSE RENEWAL DENIED. The Board may deny the renewal license of any such business that violates the terms of the regulations. The Board shall notify the owner within 30 days, and shall specify the reason for such denial in writing.

**SECTION 2.11** LOCATION. An owner shall, lease or own an office space within the Town of Edgartown to conduct business and to provide sufficient off-street parking for the storage of licensed taxicabs. Said office space and parking area shall conform to applicable laws.

**2.11.1** An owner shall file with the Board, the business address, the business mailing address, the business telephone number, and a telephone number to contact the business after hours.

**2.11.2** An owner shall, within seventy-two (72) hours, notify the Board personally or in writing of any changes listed in 2.13.1. The service of correspondence from the Board or Police Department, to any such business address on file, shall be deemed as sufficient for the purposes of providing proper notice to an owner.

**SECTION 2.12** BUSINESS RECORDS. An owner shall maintain at his/her business location for current licensed year, the following documents: the driver's trip records; vehicle inspection reports; maintenance and repair records; records of liability insurance coverage. Upon a reasonable request from the Board or Police Department, an owner shall make available or present any such documents to the Board or the Police Department.

**SECTION 2.13** INSURANCE REQUIREMENTS. An owner shall provide to the Board an affidavit of insurance coverage indicating protection from any incident arising as a result of conducting a business within the Commonwealth for the transportation of passengers for hire. Such information shall be a condition for the renewal of an owner's license.

**2.13.1** An owner shall notify the Board in writing, within seventy-two (72) hours of receipt of notice, of the cancellation of the required liability insurance or change of insurance or change of insurance carrier or insurance policy number.

**2.13.2** An owner, who has received notice that his or her liability insurance is no longer in effect or is to be terminated, shall surrender the business owner's license to the Board on or before the termination date of the insurance, unless such owner submits proof of new insurance effective on the date of the prior policy's termination.

**SECTION 2.14**

**RATES OF FARE.** The scheduled maximum rates of fare for licensed services shall be determined by the Board at a public hearing. Within 30 days prior to the annual expiration of a business license, an owner may request a change in the rates of fare, at a public hearing conducted by the Board for this purpose. The Board shall determine any such change in the schedule of the rates as indicated below:

**2.14.1** Rates of fare shall be for transportation services to all locations on the Island of Martha's Vineyard and Chappaquiddick.

**2.14.2** The rates of fare charged exclusively for the handling of oversized or heavy possessions.

**2.14.3** The rates of fare for late night transportation shall be determined by the Board.

**SECTION 2.15**

**ADVERTISEMENT.** The name of a licensed business shall be displayed on both left and right exterior of each vehicle.

**2.15.1** On the rear of each taxicab the wording "Edgartown" or "Edg." shall be displayed in letters not less than four inches high and one-half inch wide.

**2.15.2** No advertisements of any description, including the announcement of rates shall be displayed on the exterior of the vehicle or on any other inappropriate public area such as telephone poles or phone booths.

**SECTION 2.16**

**AVAILABILITY.** Any business licensed by the Town shall remain available to serve the needs and convenience of the public.

**2.16.1** During the period of October 31st through April 30th, an owner may close if there is an agreement in place to divert calls for service to another business owner who shall remain open. The agreement and scheduled period of closure shall be furnished to the Board for approval prior to closing.

**2.16.2** There shall be 24-hour service maintained by at least one (1) business. Such service shall be provided by a mutual agreement between the business owners. Calls for service to businesses closed as provided in section 2.16.1 shall be diverted by telephone call forwarding or recorded message to the businesses providing coverage. The Police Department shall be provided with the names of the businesses providing 24-hour service.

**2.16.3** Businesses shall provide adequate service to the first ferry and/or plane leaving the Island, and until the closing of all liquor establishments licensed by the Town of Edgartown.

**SECTION 2.17** COMPLAINTS OF DISCRIMINATION. An owner, who has knowledge of a complaint made by a passenger of an alleged act of discrimination or harassment against a driver or the business, shall cause a report to be made to the Board, and to the Police Department having jurisdiction.

<b>SECTION 3.0</b>	<b>DRIVER; APPLICATION FOR LICENSE</b>
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**SECTION 3.1** LICENSE REQUIRED. No person shall operate a taxicab, transportation network company vehicle, or other private vehicle licensed by the Board unless licensed as a driver of said vehicle by the Police Department.

**SECTION 3.2** MINIMUM HIRING QUALIFICATIONS. Prior to making an application for a business driver's license, the business owner shall determine that, in addition to the conditions as set forth in section 3.3, the applicant is familiar with the geography, roads and traffic regulations within the Town and on Martha's Vineyard; can by reason of experience, training or both, safely operate the type of motor vehicle he or she is to be assigned; and can read and speak the English language sufficiently to converse with the general public, to understand authorized traffic signs in the English language, to respond to official inquiries, or to make entries on reports and records.

**SECTION 3.3** MINIMUM LICENSING REQUIREMENTS. An applicant for a license to operate a taxicab transportation network vehicle, or other private vehicle shall be at least 18 years of age; shall be eligible for employment of the United States; shall be licensed by the Commonwealth to operate such motor vehicle; and have at least one year of experience operating a motor vehicle.

**SECTION 3.4** APPLICATION FILING AND FEE. An application for a business driver's license shall be filed with the Police Department. The applicant shall make payment of the non-refundable licensing fee and shall provide a photograph of himself or herself for inclusion in the license and the records of the Town. The photograph shall be passport-sized of the applicant's face and shoulders only.

All photographs shall become the property of the Town and will not be returned to an applicant.

**SECTION 3.5** CRIMINAL OFFENDER AND DRIVER HISTORY RECORDS CHECK. The Police Department shall conduct an inquiry of any criminal or driver history record, which may disqualify the applicant from acquiring such license.

**SECTION 3.6** FALSIFIED INFORMATION. Any falsification of information submitted in an original or renewal application for a license or any failure to notify the Board of any material change in the information contained therein shall be cause for denial of such application or the immediate revocation or suspension of such license. An applicant shall comply with the assessment process.

**SECTION 3.7** ASSESSMENT OF APPLICANT. A business driver's license may be issued by the Police Department after an assessment of the applicant as determined by the Board and/or the Police Department. The applicant shall, to the satisfaction of the Board and the Police Department, cooperate during the assessment process.

**SECTION 3.8** APPROVAL OF APPLICANT. An applicant approved by the Police Department for a business driver's license shall be issued such a license.

**SECTION 3.9** DENIAL OF APPLICANT. Should an application be denied, the Police Department shall notify the applicant within 30 days and specify in writing the reason for such denial. The applicant may request a hearing on the denial before the Board. A business driver's license shall not be issued to an applicant with a matter relating to the following:

**3.9.1** The admission of sufficient facts or conviction of a felony within the period of five (5) years immediately preceding the date of the filing of the application; The admission of sufficient facts or conviction of a felony or misdemeanor at any time that involved violence towards another person;

**3.9.2** The admission of sufficient facts or conviction of a felony at any time that involved a violation of the controlled substance law;

**3.9.3** The admission of sufficient facts or conviction of operating a motor vehicle under the influence of alcohol or drugs;

**3.9.4** Reasonable grounds the applicant's driver history demonstrates a prevalence to violate the traffic laws;

**3.9.5** Is under the supervision of the court; or



**3.9.6** Any other reasonable grounds to cause the Police Department to deny such application.

**SECTION 3.10** EXPIRATION AND RENEWAL. The license of a driver shall expire annually on April 30th. Within 30 days of said expiration, a driver may make an application to renew said license, and shall make payment of the licensing fee. The issuance of such license shall be granted upon the same terms and conditions as the previous license.

**SECTION 3.11** SUSPENSION OR REVOCATION. If at any time during the term of a license, the Board or the Police Department becomes aware of information that indicates the driver no longer meets the application terms for licensed driver's as stated herein, the Board or the Police Department may immediately take possession and suspend such a license for a period of no more than 14 days. The suspension period of such license may be extended or revoked, after a public hearing conducted by the Board.

**SECTION 3.12** TERMINATION OF EMPLOYMENT. If at any time during the term of a license, the employment of a driver is terminated by an owner for a violating the terms of any regulation stated herein, then such owner shall immediately notify the Police Department in writing.

<b>SECTION 4.0</b>	LICENSED DRIVER; CONDITIONS OF OPERATION
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**SECTION 4.1** OPERATE IN ACCORDANCE WITH LAW. A driver, while performing his or her duties and responsibilities, shall operate a taxicab, transportation network vehicle, or other private vehicle in accordance of law; and such driver shall not commit or attempt to commit any willful act to tender misrepresented a passenger, even though not specifically mentioned herein.

**SECTION 4.2** DOCUMENTS REQUIRED FOR OPERATION. A driver shall not operate a vehicle unless such driver is in possession of their license issued by the Commonwealth; and unless such vehicle properly displays the documents as described herein:

**4.2.1** The vehicle's license, the driver's license, and the rate card issued by the Board or the Police Department, shall be clearly displayed in plain view of the passengers, and in a manner so as not to be easily molested or destroyed.

**4.2.2** A document to record and furnish receipts to passengers upon their request.

**4.2.3** A "Not in Service" sign and a "Prearranged Fare" sign as provided in SECTIONS 6.4 AND 6.6.

- SECTION 4.3** PRESENT DOCUMENTS TO OFFICER. A driver shall present any document, required for the operation of the vehicle, upon the demand of a police officer.
- SECTION 4.4** MAXIMUM DUTY SHIFT. A driver shall be relieved from duty for a period of not less than 8 consecutive hours during a 24-hours period. A licensed owner and a driver shall comply with all regulatory laws relevant to the hours of operation for drivers.
- SECTION 4.5** APPEARANCE. A driver shall be at all times dressed in a neat and clean fashion, and shall wear shoes or sneakers.
- SECTION 4.6** CONDUCT. Drivers shall conduct themselves in a courteous and professional manner at all times. A driver shall not interfere with the business transactions of another taxicab transportation network vehicle, or other private vehicle or engage in any activity which impedes the movement of vehicular or pedestrian traffic on a public way.
- SECTION 4.7** IMPAIRED OPERATION. A driver, while performing their duties and responsibilities, shall not operate or occupy a vehicle while his or her driving ability is impaired by the consumption or use of alcohol, a controlled substance, or non-prescribed or prescribed medications.
- SECTION 4.8** SMOKING. No person shall smoke or carry a lighted cigar, cigarette, or pipe inside a vehicle, when such vehicle is engaged in the transportation of passengers.
- SECTION 4.9** ACCIDENTS. A driver shall as soon as practical, report to the owner any motor vehicle accident in which he or she is involved while operating a taxicab, transportation network vehicle, or other private vehicle licensed to carry passengers by the Board; and shall cause a report of an accident, when required by law, to be made to the governmental authority having jurisdiction. The owner of a business shall notify the Edgartown Police Department within 24-hours of any accident involving a vehicle licensed by such business.
- SECTION 4.10** CHARTER OR SPECIAL SERVICES. A driver shall not operate a vehicle carrying ten or more persons, including the driver, when engaged in providing a Charter or Special Service, unless the business is licensed to render such services and by the Department of Telecommunications and Energy. (MGL Ch. 159A S. 11A)
- SECTION 4.11** CONFLICT WITH PUBLIC TRANSPORTATION. A driver shall not transport passengers for hire between fixed routes or in such a manner as to afford a means of transportation similar to that provided by a public transportation service.

**SECTION 4.12**

**RATES OF FARE.** A driver shall not charge or attempt to charge the rates of fare in excess of such rates approved by the Board. A driver shall not make an unauthorized entry on a vehicle's rate card, or change, deface, conceal or obliterate any entry thereon, or allow a rate card to be displayed that contains erroneous information. (See Section 2.14)

**4.12.1** A driver shall give the correct change to a passenger who has paid the fare. A driver shall not ask a passenger for a tip nor indicate that a tip is expected or required.

**4.12.2** There shall be no charge for the standard handling of a passenger's luggage or other property transported in or on the vehicle. Any rate charged exclusively for the handling of oversized or heavy possessions shall be determined by the Board.

**4.12.3** If a passenger refuses to pay the fare, the driver shall report the facts at the police Department having jurisdiction.

**4.12.4** The rates of fare and the hours designated for late night transportation shall be determined by the Board.

**4.12.5** A driver shall accept a local fare when seating is available. If passengers are already on board headed to an out of town destination, the local fare will be taken to their stop before the vehicle leaves the town.

**4.12.6** A driver, upon the request of a passenger, shall provide a receipt for the payment of the fare. Said receipt shall contain the date, time, driver's name, the business name, and the rate of fare paid.

**SECTION 4.13**

**SOLICITATION.** A driver shall not solicit the transportation of passengers or goods from an area other than a taxicab stand.

**4.13.1** Unless otherwise authorized by an officer, no person other than the driver assigned to the taxicab shall solicit passengers.

**4.13.2** The solicitations of passengers by the driver shall be made at normal voice level.

**4.13.3** A driver shall not solicit passengers by means of misleading information, including but not limited to, the rate of fare.

**4.13.4** A driver shall not solicit passengers or stop within one-hundred (100) feet of any shuttle bus stop, unless hired by a pre-arranged fare.

**4.13.5** A driver shall not operate a vehicle at a persistent diminished speed, not consistent with the movement of existing traffic, which results in the advancement of such traffic to be interrupted.

**SECTION 4.14** PASSENGER REQUESTS. A driver shall comply with the reasonable requests of a passenger, including but not limited to giving his or her name upon request.

**4.14.1** Upon request of a passenger, the driver shall load or unload a passenger's luggage and property in or from the vehicle's interior or trunk compartment.

**4.14.2** A driver shall take a passenger to the specified destination within a reasonable time.

**4.14.3** The sound emanating from an AM/FM radio, compact disc player, or cassette player shall be turned off at the request of the passenger.

**4.14.4** A driver must always be capable of making change for a twenty-dollar (\$20) bill.

**SECTION 4.15** PASSENGER REFUSAL. A driver shall not refuse by words, gestures or any other means, without reasonable grounds, as provided herein, to take a passenger to any destination on the Island of Martha's Vineyard or Chappaquiddick, to transport a passenger's luggage and other property. Justifiable grounds for refusal of service shall include, but is not limited to the following:

**4.15.1** The number of passengers would exceed the capacity of the vehicle;

**4.15.2** The vehicle is presently engaged for the service of another passenger;

**4.15.3** The passenger is disorderly, intoxicated, or is smoking;

**4.15.4** The Chappaquiddick ferry was not in operation.

**4.15.5** The driver determines by reasonable grounds that an article, package, case, or container in the possession of a passenger may cause damage to the vehicle, or may impair the efficient operation of the vehicle.

**4.15.6** The passenger is escorting or accompanied by an animal, which to the satisfaction of the driver is not properly restrained or secured; provided however that this section shall not apply to the transportation of disabled passengers who are accompanied by a trained dog guide.

**4.15.7** The passenger attempts to occupy the vehicle with an open container of alcohol; or

**4.15.8** The driver is ending his or her duty shift.

**SECTION 4.16** FOUND PROPERTY. The lost property of a passenger found in a vehicle by a driver shall be safeguarded, and the police Department having jurisdiction shall be notified; unless such driver or business makes prompt arrangements to return such property to its rightful owner.

**SECTION 4.17** VEHICLE CAPACITY. A driver shall not transport an amount of passengers greater than the maximum designed seating capacity for the vehicle; or in an amount greater than the seating capacity approved by the Commonwealth.

**SECTION 4.18** "LOCAL FARE; PRIORITY DESTINATION" A driver shall accept the transportation request of a local fare, whose destination shall have priority over other passengers or goods, unless, at the time of the request:

**4.18.1** The driver is engaged in the conveyance of a fare;

**4.18.2** The driver is traveling to the location of a pre-arranged fare; or

**4.18.3** The driver has agreed to provide services to another fare.

<b>SECTION 5.0</b>	LICENSED VEHICLES; CONDITIONS OF OPERATION
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**SECTION 5.1** MECHANICAL CONDITION. A licensed taxicab, transportation network vehicle, or other private vehicle licensed to carry passengers by the Board shall display a valid Commonwealth of Massachusetts vehicle inspection sticker, and shall at all times be capable of passing such inspection.

**SECTION 5.2** INTERIOR AND EXTERIOR CONDITION. Taxicabs, transportation network vehicles, or other private vehicle licensed to carry passengers by the Board shall be well painted and have no visible rust, primer, safety defects, or dents larger than 20 square inches by one half inch deep. The interior shall be free of excessive dust, sand or debris. Windows shall be clean. Seats shall not have holes, unless patched with an appropriate fireproof tape. Wheel covers or hubcaps shall be present on all wheels where normally required.

**SECTION 5.3** UNSAFE OPERATION FORBIDDEN. A taxicab, transportation network vehicle, or other private vehicle licensed to carry passengers by the Board shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

**SECTION 5.4** DRIVER; VEHICLE INSPECTION. The driver shall be satisfied that the vehicle is in a safe operating condition. Any defect or deficiency discovered by the driver, which would likely affect the safe operation of the vehicle, shall be reported to the owner.

**SECTION 5.5** OWNER OR DRIVER; VEHICLE DECLARED "OUT OF SERVICE". A business owner or the driver assigned to a vehicle , shall declare such vehicle "Out of Service" upon a determination by such owner or driver, by means of reasonable grounds, that a condition exists which would likely affect the safe operation of the vehicle. A taxicab declared "Out of Service", shall not be operated until all necessary repairs have been satisfactorily completed.

**SECTION 5.6** POLICE DEPARTMENT; VEHICLE INSPECTION. Taxicabs, transportation network vehicles, or other private vehicle licensed to carry passengers by the Board are subject to periodic unannounced inspection by the Police Department to determine their fitness for continued operation and compliance with the regulations herein.

**SECTION 5.7** POLICE DEPARTMENT; VEHICLE DECLARED "OUT OF SERVICE". The Police Department may declare a vehicle immediately "Out of Service", upon the determination by an officer, by reasonable grounds, that a condition which would likely affect the safe operation of the vehicle; or does not meet the regulations as stated herein.

**SECTION 5.8** VEHICLE; RETURN TO SERVICE. Before a vehicle is returned to service after declared "Out of Service" by the Police Department, the owner shall cause the vehicle to be presented to the Department for a re-inspection; or present documentation that the necessary repair was completed.

<b>SECTION 6.0</b>	TAXICAB STANDS AND STOPPING PLACES
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**SECTION 6.1** PARKING, STOPPING OR STANDING. A driver shall not park, stop, or stand on a way not designated for the use of a taxicab, unless authorized herein, or as otherwise authorized by a police officer.

**6.1.1** A driver may, unless otherwise prohibited by a police officer, reasonably impede the movement of vehicular or pedestrian traffic on a public way, when loading or discharging handicapped or elderly passengers.

**SECTION 6.2** TAXICAB STANDS. Any area designated by the Board for use as a taxicab stand, shall be equally available to taxicabs licensed by the Town. A driver may, at any time stop and take a position into a vacant stand.

**SECTION 6.3** TAXICAB STANDS; YACHT CLUB PARKING LOT. A driver may at any time occupy the taxicab stands designated in the Yacht Club Parking Lot, provided however; that said stands shall be equally available to all taxicab businesses licensed by the Town.

**6.3.1** The occupation of the stands by a driver shall be determined on a first-come first-served basis.

**6.3.2** A driver shall not occupy taxicab stands #1 or #2 (located in the center of the lot), unless the entire length of such taxicab is positioned within the borders of the defined pavement markers.

**SECTION 6.4** PREARRANGED FARES. A driver parked in a loading zone shall post a prearranged fare sign on the taxicab dashboard; and such sign shall state the surname of the prearranged fare and the number of passengers in the party.

**SECTION 6.5** TAXICAB STANDS; DEPLOYMENT VIOLATION. A driver shall not act in collusion with another driver, with the intent to deprive a competitor taxicab business from occupying a taxi stand. The coordination of taxicabs licensed by the same business, with the departure of one taxicab from a taxi stand, followed by the immediate arrival and reoccupation of the same stand by a second taxicab, shall be considered a violation.

**SECTION 6.6** TAXICAB NOT IN SERVICE; PUBLIC PARKING. A driver shall not park a taxicab in any public parking space, other than those designated exclusively for licensed taxicabs, unless the driver declares the taxicab "Not in Service" by the posting of an authorized sign, on the dashboard of said vehicle.

**SECTION 6.7** TAXICAB NOT IN SERVICE; TAXICAB STAND. A driver shall not park a taxicab in a taxicab stand after declaring said taxicab "Not in Service".

**SECTION 6.8** LOADING ZONE. A driver may make use of designated loading zones for a period of not more than 5 minutes, in order to stand in wait for a prearranged fare, or to leave the vehicle when it is necessary to locate a prearranged fare or ride.

<b>SECTION 7.0</b> NON-CRIMINAL DISPOSITION OF VIOLATIONS
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**SECTION 7.1** VIOLATION OF REGULATIONS; NOTICE TO OFFENDER. Whenever a police officer has reasonable grounds to believe that a taxicab, transportation network vehicle, or other private vehicle licensed to carry passengers by the Board business, a taxicab, transportation network company, or other private vehicle licensed to carry passengers by the Board, or a taxicab, transportation network company or other private vehicle driver is in violation of the regulations stated herein, then such officer may issue a written violation notice to any offender, as provided in Section 21D of Chapter 40 of the Massachusetts General Laws.

**SECTION 7.2** VIOLATION OF REGULATIONS; GENERAL FINE ASSESSMENTS. Unless otherwise provided in section 7.3, a fine in the amount of \$25.00 shall be assessed for the first offense, a fine in the amount of \$50.00 shall be assessed for the

second offense, and a fine in the amount of \$100.00 shall be assessed for the third or subsequent offenses.

**SECTION 7.3**

**VIOLATION OF REGULATIONS; SELECTED FINE ASSESSMENTS.**

- 7.3.1** The operation of a vehicle not licensed by the Town: \$300.00 per day.
- 7.3.2** The operation of a vehicle without a renewal license: \$100.00 per day.
- 7.3.3** Attempting to charge or solicit, or the charging of a rate of fare in excess of the rates approved by the Board, is subject to a fine of One-Hundred Dollars (\$100.00) per offense.
- 7.3.4** The failure to display “EDGARTOWN” or “EDG” on the rear of each taxicab as required: \$50.00 per day.
- 7.3.5** The failure of an owner or driver to clearly post a rate schedule in each vehicle: \$50.00 per day.
- 7.3.6** The failure of a business, closed during October through May to forward incoming calls for service to a company that is operating: \$50.00 per day.
- 7.3.7** The failure of a business closed during the early morning hours to provide or forward calls to a company providing 24 hour coverage: \$50.00 per day.
- 7.3.8** The failure of an owner to maintain a vehicle in sound mechanical condition: \$50.00 per day.
- 7.3.9** The display of for profit advertising on exterior of taxicab or in other inappropriate area: \$25.00 per day.
- 7.3.10** The failure of an owner to submit a vehicle for police inspection: \$25.00 per day.
- 7.3.11** The failure of a driver to obey the lawful request of a police officer, whether or not identified in these regulations: \$25.00 per day.
- 7.3.12** A driver of a vehicle, not licensed by the Town of Edgartown, who, by the determination of reasonable grounds, is found in violation of the terms as established in these regulations, shall be fined in the amount of \$100 dollars.



<b>SECTION 8.0</b>	<b>COMPLAINTS, FINES AND PENALTIES</b>
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**SECTION 8.1** BASIS FOR COMPLAINT. Any complaint alleging the violation of a regulation or law by an owner or driver shall be reduced to writing and signed by the complainant.

**SECTION 8.2** INVESTIGATION. The Police Department shall investigate any such complaint as stated in Section 8.1 and shall report their findings to the Board.

**SECTION 8.3** HEARING. The Board may hold a hearing on any complaint to determine what action, if any, may be taken. The complainant or representative and the owner or representative shall attend. The Board may, suspend or revoke the license of a business, a t vehicle, or a driver or take any other action. Any decision rendered by the Board shall be final and may be appealed as provided by law.

<b>SECTION 9.0</b>	<b>RECIPROCITY</b>
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**SECTION 9.1** OTHER JURISDICTIONS. Any business owner, driver, or vehicle engaged in providing services in any other jurisdiction, shall comply with the regulations stated herein; unless such owner, driver or vehicle is licensed by the jurisdiction to perform such service within such jurisdiction.

**SECTION 10.0** ADOPTION OF REGULATIONS

**SECTION 10.1** BOARD OF SELECTMEN; ADOPTION OF REGULATIONS. The Board of Selectmen, as authorized pursuant to Section 22 of Chapter 40 of the Massachusetts General Laws, hereby approve the adoption of the regulations stated herein, for the licensing of taxicab services in the Town of Edgartown.

ADOPTED ON THE 20<sup>TH</sup> DAY OF JUNE 2005, AMENDED JUNE 15, 2015  
BY THE BOARD OF SELECTMEN FOR THE TOWN OF EDGARTOWN  
ARTHUR SMADBECK, MARGARET SERPA, MICHAEL DONAROMA

## Chapter 161

### TRAPS

**161-1. Prohibited acts.**

**161-2. Violations and penalties.**

**[HISTORY: Adopted 4-10-1990 Annual Town Meeting, Art. 6, approved 6-29-1990. Amendments noted where applicable.]**

**161-1. Prohibited acts.**

No person shall use, set, place or maintain any type of jawed leghold trap, padded or unpadded, modified or unmodified, including but not limited to the softcatch trapping system or any kind of conibear trap, within the limits of any highway, park, school ground or other public property or on any private property.

**161-2. Violations and penalties.**

Any person violating any provision of this chapter shall be punished by a fine of not more than three hundred dollars (\$300.) for each offense.

**Chapter 163**

**VEHICLES, OPERATION OF**

**ARTICLE I**

**Doctor Fisher Road**

**163-1. Operation prohibited; exceptions.**

**163-2. Violations and penalties.**

**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Rental of motor vehicles – See Ch. 118, Art. II.

Recreational vehicles – See Ch. 142.

Streets and sidewalks – See Ch. 150.

Unregistered vehicles – See Ch. 164.

Vehicles and traffic – See Ch. 188.

**ARTICLE I**

**Doctor Fisher Road**

**[Adopted 4-11-2000 ATM, Art. 32, approved 8-8-2000]**

**163-1. Operation prohibited; exceptions.**

No person shall operate or permit the operation of a motor vehicle or a motorized bicycle, as defined by Massachusetts General Law, on the Doctor Fisher Road, a special way within the Island Road District, a District of Critical Planning Concern, designated as such under the authority of the Martha's Vineyard Commission. This section shall not apply to the operation of a motor vehicle on said Doctor Fisher Road, a special way within the Island District by:

- A. Any police officer in the performance of matters related to public safety; or
- B. Any persons authorized by said police officer; or
- C. Any persons authorized by Sec. 175-78B of the Zoning Chapter to perform any maintenance or repair operation.

**163-2. Violations and penalties.**

Whoever violates any provision of this article shall be punished by a fine of not more than \$50.

## Chapter 164

### VEHICLES, UNREGISTERED

- 164-1. Limit to be kept on premises.**
- 164-2. Storage in front yards prohibited.**
- 164-3. Violations and penalties.**
- 164-4. Exemptions.**

**[HISTORY: Adopted as Ch. XVIII of the 1983 compilation of bylaws. Amendments noted where applicable.]**

**164-1. Limit to be kept on premises.**

No person shall have more than one (1) unregistered car or truck ungaraged on premises owned by him or under his control unless authorized by the Board of Selectmen.

**164-2. Storage in front yards prohibited.**

Under no circumstances shall an unregistered and unsightly car or truck be stored in a front yard, nor shall said Board authorize such storage.

**164-3. Violations and penalties.**

Penalty for a breach hereof shall be in an amount not in excess of fifty dollars (\$50.), and each day or during any portion thereof on which a violation is permitted to exist shall constitute a separate offense.

**164-4. Exemptions.**

This chapter shall not apply to premises licensed under Chapter 140 of the General Laws.

## Chapter 165

### VEGETATION, KILL

Special legislation to prevent substances designed to kill vegetation from infiltrating and contaminating watersheds and groundwater sources of drinking water, the better to preserve the public health, welfare, and safety, by requiring all government agencies and public utilities intending to employ such substances to undergo review and receive approval from the Edgartown Board of Health may prescribe, limit, or prohibit the application of such products on lands in the Town that are designated as watersheds affecting ponds in the Town and/or the sole source aquifers for the Town water supply and/or aquifers for private and community residential wells in the Town. (Art. 82, 04-09-2019 ATM)

**Chapter 167**

**WATER**

**ARTICLE I**

**Cross-Connections**

**167-1. Approval required; regulations.**

**[HISTORY: Art. 1, adopted 6-28-1993 Special Town Meeting, Art. 18, approved 8-30-1993. Amendments noted where applicable.]**

**GENERAL REFERENCES**

Sewers – See Ch. 145.

**ARTICLE I**

**Cross-Connections**

**[Adopted 6-28-1993 STM, Art. 18, approved 8-30-1993]**

**167-1. Approval required; regulations.**

No cross-connection shall be installed, maintained, permitted or otherwise authorized between the Town of Edgartown water supply system and/or any unapproved source or system, unless such connection has been approved by the Edgartown Water Department and/or the Massachusetts Department of Environmental Protection. When necessary, backflow prevention devices approved by the Edgartown Water Department and/or the Massachusetts Department of Environmental Protection shall be installed. Failure to comply with orders issued by the Edgartown Water Department and/or the Department of Environmental Protection to abate cross-connections will result in termination of water service. No treatment shall be added to the water supplied by the town unless authorized by the Edgartown Water Department.

## Chapter 169

### WETLANDS

- 169-1. Intent.
- 169-2. Permit requirement.
- 169-3. Form of application.
- 169-4. Filing fee.
- 169-5. Authority to enter upon private property.
- 169-6. Request for determination of applicability.
- 169-7. Public hearing.
- 169-8. Failure to hold hearing.
- 169-9. Burden of proof.
- 169-10. Permit provisions and conditions.
- 169-11. Appeals.
- 169-12. Imposition of additional conditions.
- 169-13. Emergency projects.
- 169-14. Preacquisition violation.
- 169-15. Promulgation of rules and regulations.
- 169-16. Security.
- 169-17. Violations and penalties.
- 169-18. Enforcement.

[HISTORY: Adopted 4-9-1985 Annual Town Meeting, Art. 16, approved 8-27-1985. Amendments noted where applicable.]

#### GENERAL REFERENCES

Recreational vehicles – See Ch. 142.  
Zoning – See Ch. 175.

#### 169-1. Intent.

The intent of this chapter is to protect the wetlands of the Town of Edgartown by controlling activities deemed to have a significant effect upon wetlands and water quality values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion control, storm damage prevention, fisheries, shellfish, wildlife and their habitats, recreation and preservation of natural and historic views and vistas.

#### 169-2. Permit requirement.

No person shall, without filing written application for a permit to so remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect upon the environment, and receiving and complying with a permit issued pursuant to this chapter, remove, fill, dredge, alter or build:

- A. Upon or within two hundred (200) feet of any freshwater area: wetland, marsh, bog, swamp, meadow, pond, creek or stream.

- B. Upon or within two hundred (200) feet of any coastal area: bank, beach, barrier beach, dune, flat, saltwater marsh, swamp, meadow or bog.
- C. Upon or within two hundred (200) feet of any saltwater estuary/creek, stream, pond or great pond.
- D. Upon or within one hundred (100) feet of the hundred-year storm line as shown on the latest Federal Emergency Management Agency (FEMA) maps. **[Amended 6-25-1991 STM, Art. 12, approved 10-8-1991] Land subject to tidal action, land subject to coastal storm flowage, land subject to flooding, and riverfront area. (Amended 06-13-2020 STM, Art.9)**
- E. Upon or within three hundred (300) feet of Edgartown Great Pond, Jacob’s Pond, Oyster Pond, Jobs Neck Pond, Paqua Pond, Wheldon’s Pond and Crackatuxet Cove or upon or within three hundred (300) feet of any wetland, bank, stream, beach or dune adjacent to or draining into the above-named ponds. **[Added 4-10-1990 ATM, Art. 11, approved 6-29-1990]**
- F. Upon or within two hundred feet (200) of land under the ocean, any estuary, creek, river, stream or pond. **(Amended 06-13-2020 STM, Art.9)**

**169-3. Form of application. [Amended 6-25-1991 STM, Art. 12, approved 10-8-1991]**

Such application shall be on a form as prescribed by the Conservation Commission or may be identical in form to a notice of intent filed pursuant to MGL C. 131, Sec. 40, and shall be sent via certified mail or hand delivered to the Edgartown Conservation Commission (hereinafter called “the Commission”).

**169-4. Filing fee.**

The Commission shall set a filing fee for application, but no filing fee is required when the Town of Edgartown files an application.

**169-5. Authority to enter upon private property.**

The Commission, its agents, officers and employees may enter upon privately owned land for the purpose of performing their duties under this chapter.

**169-6. Request for determination of applicability.**

Upon written request of any person, the Commission shall, within thirty (30) days, make a written determination as to whether this chapter is applicable to any land or work thereon, necessitating the filing of an application for a permit.

**169-7. Public hearing.**

Prior to issuing any permit (Sec. 169-10), the Commission shall hold a public hearing within thirty (30) days of the receipt of the application. Notice of the time and place of such hearing shall be given by the Commission not less than five (5) days prior to the public hearing by publication in a newspaper of general circulation in the town and by mailing a notice to the applicant, the Board of Health and the Planning Board. Such hearing may be held at the same time and place as any public hearing required to be held under MGL C. 131, Sec. 40. If the Commission determines that

additional data or information is necessary, the hearing may be continued to a future date(s) for as many sessions as deemed necessary by a majority of the Commission members.

**169-8. Failure to hold hearing.**

If the Commission has failed to hold a public hearing within the thirty-day period as required or if, after holding such a hearing, the Commission has failed within thirty (30) days from the date of the close of the hearing to issue a permit, the application shall be considered approved.

**169-9. Burden of proof.**

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this chapter. Failure to provide adequate evidence to the Commission supporting a determination that the proposed work will not harm the interests protected by this chapter shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions or, at the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

**169-10. Permit provisions and conditions.**

If, after the public hearing, the Commission determines that the area which is the subject of the application is significant to the interests protected by this chapter, the Commission shall, within thirty (30) days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such a determination, the Commission shall impose such conditions as it determines are necessary or desirable for the protection of those interests, and all work shall be done in accordance with those conditions. Permits shall expire one (1) year from the date of issuance unless renewed prior to expiration, and all work shall be completed prior to the expiration.

**169-11. Appeals. [Amended 6-25-1991 STM, Art. 12, approved 10-8-1991]**

Any person aggrieved by a decision of the Commission under this chapter may appeal to the Superior Court within sixty (60) days of the filing of the permit with the Town Clerk.

**169-12. Imposition of additional conditions.**

The Commission shall not impose additional or more stringent conditions in any order pursuant to MGL C. 131, Sec. 40, than it imposes pursuant to this chapter.

**169-13. Emergency projects.**

The notice provisions of this chapter shall not apply to emergency projects necessary for the immediate protection of the health or safety of the citizens of Edgartown as certified in writing by the Commission.

**169-14. Preacquisition violation.**

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this chapter or in violation of any permit issued pursuant to



this chapter shall forthwith comply with any such order to restore such land to its conditions prior to any such violations. No action, civil or criminal, shall be brought against such person unless commenced within three (3) years following the date of acquisition of the real estate by such person.

**169-15. Promulgation of rules and regulations.**

After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this chapter. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effects of this chapter.

**169-16. Security.**

The Commission may require, as a permit condition, that the performance and observation of other conditions be secured by one (1) or both of the following methods:

- A. By a bond or deposit of money or negotiable securities in an amount determined by the Commission to be sufficient and payable to the Town of Edgartown upon default.
- B. By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

**169-17. Violations and penalties.**

Any person who violates any provision of this chapter or any condition of a permit issued pursuant to it shall be punished by a fine of not more than three hundred dollars (\$300.). Each day or portion thereof during which a violation continues shall constitute a separate offense.

**169-18. Enforcement.**

- A. This chapter may be enforced pursuant to MGL C. 40, Sec. 21D, by a town police officer, other officer having police powers, Commission member or Commission agent. **[Amended 4-10-1990 ATM, Art. 5, approved 6-29-1990]**
- B. Upon request of the Commission, the Board of Selectmen and Town Counsel shall take legal action as may be necessary to enforce this chapter and permits issued pursuant to it.

## Chapter 172

### YARD SALES

**172-1. Permit required.**

**172-2. Violations and penalties.**

**[HISTORY: Adopted 6-22-82 Special Town Meeting, Art. 8, approved 10-11-82. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Fees – See Ch. 95.

**172-1. Permit required.**

It shall be unlawful for any person to conduct a yard sale within the limits of the Town of Edgartown without first obtaining a permit from the Board of Selectmen.

**172-2. Violations and penalties.**

Any person violating this chapter shall be punished by a fine of not more than fifty dollars (\$50.) for each offense.

**Chapter 175**

**ZONING**

**ARTICLE I  
Title; Purpose**

- 175-1. Title.**
- 175-2. Purpose.**

**ARTICLE II  
Definitions**

- 175-3. Terms defined.**

**ARTICLE III  
Districts**

- 175-4. Districts enumerated; Zoning Map.**

**ARTICLE IV  
R-60 Residential District**

- 175-5. General provisions.**
- 175-6. Permitted uses.**
- 175-7. Conditional uses.**
- 175-8. Permitted accessory uses.**
- 175-9. Bulk, area and parking requirements.**
- 175-10. Prohibited uses.**

**ARTICLE V  
R-20 Residential District**

- 175-11. General provisions.**
- 175-12. Permitted uses.**
- 175-13. Conditional uses.**
- 175-14. Permitted accessory uses.**
- 175-15. Bulk, area and parking requirements.**
- 175-16. Prohibited uses.**

**ARTICLE VI  
R-5 Residential District**

- 175-17. General provisions.**
- 175-18. Permitted uses.**
- 175-19. Conditional uses.**
- 175-20. Permitted accessory uses.**
- 175-21. Bulk, area and parking requirements.**

ARTICLE VII  
R-120 Residential District-Chappaquiddick

- 175-22. General provisions.
- 175-23. Permitted uses.
- 175-24. Conditional uses.
- 175-25. Permitted accessory uses.
- 175-26. Bulk, area and parking requirements.
- 175-27. Height of structures.
- 175-28. Prohibited uses.

ARTICLE VIII  
RA-120 Residential District

- 175-29. General provisions.
- 175-30. Permitted uses.
- 175-31. Conditional uses.
- 175-32. Permitted accessory uses.
- 175-33. Bulk, area and parking requirements.
- 175-34. Prohibited uses.

ARTICLE IX  
B-I Business District

- 175-35. General provisions.
- 175-36. Permitted uses.
- 175-37. Conditional uses.
- 175-38. Prohibited uses.
- 175-39. Bulk, area and parking requirements.
- 175-40. Special permit considerations.

ARTICLE X  
B-II Upper Main Street District

- 175-41. General provisions.
  - 175-42. Permitted uses.
  - 175-43. Uses permitted by special permit from Planning Board.
  - 175-44. Prohibited uses.
  - 175-45. Special permit procedures.
  - 175-46. Conditions.
- 
- 175-46.1 Expansion, alteration or change of nonconforming structures and uses.
  - 175-46.2 Decision.

ARTICLE XI  
**B-III Light Industrial and Service District**

- 175-46.3 Area.
- 175-47. General provisions.
- 175-48. Permitted uses.
- 175-49. Conditionally permitted uses.
- 175-49.1. Bulk, dimensional and site requirements.

ARTICLE XI-A  
**B-IV Trades District**

- 175-49.2. Area.
- 175-49.3. Purpose.
- 175-49.4. Permitted uses.
- 175-49.5. Conditional uses.
- 175-49.6. Prohibited uses.
- 175-49.7. Bulk, dimensional and site requirements.

ARTICLE XII  
**General Regulations**

- 175-50. Subdivision of lots.
- 175-51. Principal buildings on same lot.
- 175-52. Height of buildings; exceptions.
- 175-52.1. Elevated decks and elevated porches.
- 175-53. Corner clearances.
- 175-54. Conversion of existing conforming structures.
- 175-55. Conditionally permitted uses.
- 175-56. Mobile home and recreational vehicle regulations.
- 175-57. Unregistered cars.
- 175-58. Nonconforming structures and uses.
- 175-59. Temporary structures and uses.
- 175-60. Accessory scientific uses.
- 175-61. Eating establishments.
- 175-62. Conversions to time-sharing ownership dwelling unit.
- 175-63. General development regulations.
- 175-64. Multi-unit dwellings.
- 175-64.1. Trash.
- 175-64.2. Assisted housing.
- 175-64.3. Island independent living.
- 175-64.4. Accessory apartments.
- 175-64.5. Substandard lots as affordable homesites.

ARTICLE XIII  
**Cluster Developments**

- 175-65. Authorization to file permit application.
- 175-66. Criteria for granting of permit.
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**[HISTORY: Adopted 3-8-1966 Annual Town Meeting, Art. 9; amended through 4-9-1985 Annual Town Meeting. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

- Planning Board – See Ch. 45.
- Fees – See Ch. 95.
- Historic District – See Ch. 112.
- Wetlands – See Ch. 169.
- Subdivision of land – See Ch. 202.
- Zoning Board of Adjustment Rules and Regulations – See Ch. 205.



ARTICLE I  
**Title; Purpose**

**175-1. Title.**

This chapter shall be known and referred to as the “Town of Edgartown, Massachusetts, Zoning Bylaw.”

**175-2. Purpose.**

The purpose of this Zoning Bylaw is to promote the health, safety, convenience and welfare of the inhabitants of the Town of Edgartown and to provide the benefits and protection authorized by Chapter 40A of the General Laws of the Commonwealth; and the Town of Edgartown hereby adopts Chapter 40, 40A and all sections incorporated therein as amended by Chapter 808 of the Acts of 1975.

ARTICLE II  
**Definitions**

**175-3. Terms defined.**

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING OR USE – One which is subordinate in purpose to and serves a principal building or principal use.

ALTERATION – Any change in size, shape, character or use of a building or structure.

BULK – The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another.

CONVENIENCE STORE – A retail store with a floor area of less than 501 square feet, located within and subsidiary to a gas station and selling goods limited to prepackaged food items, beverages not including all alcoholic beverages, household and gas station items, pharmaceuticals and personal hygiene items, newspaper, maps and tobacco. **[Added 4-11-2000 ATM, Art. 15, approved 8-8-2000]**

DEVELOPMENT – Includes any building, reconstruction or alteration of a structure or land; division of land into lots; change in the type of use of a structure or land; material increase in the intensity of the use of land, such as an increase in the number of offices, stores or dwelling units in a structure or on land or a change in occupancy resulting in larger traffic, wastewater or other off-site impacts; reestablishment of a use which has been discontinued for two years or longer; and commencement of mining, excavation or filling on a parcel of land. “Development” shall not include ordinary maintenance or repair not requiring a building permit,

transfer of title not involving the division of land into parcels or change of occupancy not materially increasing intensity of use of land.

DWELLING – A structure used in whole or in part for human habitation. A “dwelling” does not include a trailer or mobile home, however mounted, or a vessel. **[Amended 4-14-1987 ATM, Art. 12, approved 11-16-1987]**

FARM SILO – A structure used for storing feed for livestock.

FAST-FOOD RESTAURANT – An establishment for the sale of on-premises-prepared food or drink, if providing in-car service, window service, drive-through service or service at two or more take-away stations within the building or if there is sale in any other way of food or drink packaged for takeout, except incidental to a conventional restaurant or other permitted use.

GUESTHOUSE – A subordinate dwelling to the principal dwelling on a lot.

LOT – A parcel of land in one ownership, with definite boundaries, occupied or suitable to be occupied by a certain use. See also “lot area.” **[Amended 4-8-1997 ATM, Art. 19, approved 9-3-1997]**

LOT AREA – The horizontal area of the lot exclusive of any area in a street or recorded way. Land under any water body, bog, swamp, wet meadow, marsh, wetland, coastal beach or coastal dune as defined in MGL C. 131, Sec. 40 or by the Edgartown Wetlands Protection Bylaw, shall not be included in the lot area required for zoning compliance. This definition shall not apply to a lot shown on a plan or described in a deed duly recorded at the Registry of Deeds as of April 8, 1997, which at the time of the Zoning Bylaw change conformed to the then existing requirements for the zoning district in which it is located. **[Added 4-8-1997 ATM, Art. 19, approved 9-3-1997]**

MULTI-UNIT DWELLING – Any building consisting of attached single-family units, with each unit providing independent living facilities. **[Added 4-8-1986 ATM, Art. 19]**

OPEN LAND – A parcel or parcels of land or an area of water, or a combination of land and water, not including roads, set aside in an undeveloped state for the benefit, use and enjoyment of the residents of a cluster development or the residents of the Town.

PLANNED DEVELOPMENT DISTRICT (PDD) – An area of land in which a mixture of residential, open land and/or other uses and a variety of building types and designs are determined to be sufficiently advantageous to render it appropriate to grant a

special permit and to depart from the normal requirements of the underlying district to the extent authorized by this Zoning Bylaw and by MGL C. 40A, Sec. 9. A "Planned Development District" shall consist of not less than five contiguous acres of land.

**[Amended 4-8-1986 ATM, Art. 20]**

RECREATIONAL VEHICLE – A vehicle normally used for recreational purposes, including removable truck-mounted campers, motor homes, travel trailers, van conversions and similar vehicles.

SIGN – Includes any structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation used as, or which is in the nature of, an advertisement, announcement or direction.

**SPECIAL PERMIT GRANTING AUTHORITY [Amended 4-14-1987 ATM, Art. 12, approved 11-16-1987; 9-12-1989 STM, Art. 18, approved 1-8-1990]:**

- A. The Planning Board for special permits for cluster developments and for special permits in the beach areas and wetlands and in the B-II Upper Main Street District and within the Coastal, Island Road and Special Places and Cape Pogue Districts and for the Surface Water District.
- B. The Building Inspector for the Sign Chapter (Article XVI).
- C. The Zoning Board of Appeals for all other special permits authorized by this chapter.

STREET – A public way or a way having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the proposed use of the land abutting thereon or served thereby.

STRUCTURE – A combination of materials assembled at a fix location to give support or shelter. A "structure" includes any building. A fence or wall over six feet high shall be considered a structure; an open terrace not more than 30 inches above grade shall not be considered to be a structure. A vessel shall not be considered to be a structure. **[Amended 4-14-1987 ATM, Art. 12, approved 11-16-1987]**

TIME-SHARING OR TIME-INTERVAL OWNERSHIP DWELLING UNIT – A dwelling unit in which the exclusive right of use, possession or occupancy circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either:

- A. Time-share estate, in which the ownership or leasehold estate in property is devoted to a time-share fee (tenants in common, timespan ownership or interval ownership) and a time-share lease; or

- B. Time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of “time-share estate,” including but not limited to a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond.

TRANSIENT RESIDENTIAL FACILITIES – Hotels, motels, inns or lodging houses with a capacity or more than four guest beds, and time-sharing or time-interval ownership dwelling units.

USE – The purpose for which land or any structure is occupied or maintained, arranged, designed or intended.

VESSEL – Every description of watercraft, other than a sea/float plane on water, used as a means of transportation on water. Specifically excluded by this definition are floating homes or dwellings. **[Added 4-14-1987 ATM, Art. 12, approved 11-16-1987]**

WIND ENERGY CONVERSION SYSTEMS (WECS) – A device which converts wind energy to mechanical or electrical energy.

### ARTICLE III Districts

#### **175-4. Districts enumerated; Zoning Map.**

- A. The Town of Edgartown is hereby divided into the following districts for the administration of this chapter.
- (1) R-5 Residential: 5,000 square feet minimum lot size.
  - (2) R-20 Residential: ½ acre minimum lot size.
  - (3) R-60 Residential: 1 ½ acres minimum lot size.
  - (4) R-120 Residential: three acres minimum lot size; Chappaquiddick.
  - (5) RA-120 Residential/agricultural: three acres minimum lot size.
  - (6) B-I Business: Town Center.
  - (7) B-II Business: highway-linear type.
  - (8) B-III Business: outlying.
  - (9) <sup>10</sup>B-IV Trades District. **[Added 10-29-1998 STM, Art. 16, approved 3-1-1999]**
  - (10)PDD Planned Development District: an overlay district to the R-20 Zoning District.
  - (11)SWD Surface Water District: harbors and bay ponds. **[Added 4-14-1987 ATM, Art. 12, approved 11-16-1987]**

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<sup>10</sup> Editor’s Note: Former Subsection A(9) and (10) were redesignated as Subsection A(10) and (11) to accommodate the addition of this Subsection A(9).

- B. The above districts are indicated and identified upon the Zoning Map of said Town, filed with the office of the Town Clerk, which map is incorporated in and made part of this chapter.

ARTICLE IV  
**R-60 Residential District**

**175-5. General provisions.**

In the R-60 Residential District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used in whole or in part for any uses except the following.

**175-6. Permitted uses.**

The following uses are permitted in the R-60 Residential District:

- A. One single-family detached dwelling on a lot with the usual and necessary outbuildings incidental thereto.
- B. Religious and educational uses not for profit.
- C. Public parks, playgrounds, fraternal buildings, municipal uses and recreational buildings not for profit.
- D. Accessory uses customarily incidental to a permitted use on the same premises, including but not limited to the following:
  - (1) Use of a room or rooms in a dwelling for customary home, professional or medical occupations conducted by the resident occupants and their professional associate.
  - (2) Use of premises or building thereon in connection with his or her trade by a resident carpenter, electrician, painter, plumber, mason, fisherman and other artisan, provided that no offensive noise, vibration, smoke, dust, odors, heat, glare or unsightliness is produced, and provided that all accumulated building, construction or other materials used in connection with the trade are screened from ground floor level of neighboring properties and from public and private ways, and provided that no more than two commercial vehicles are regularly stored or parked overnight on the property, and provided that any signs comply in full with the sign regulations of this chapter.  
**[Amended 4-11-1989 ATM, Art. 13, approved 6-22-1989]**
- E. The noncommercial use of wharves, piers and docks or waterfront property, except as noted above in Subsection D(2).
- F. One guesthouse on a lot with a single-family dwelling, which dwelling shall have been in existence for not less than five years. Such guesthouse shall not be larger than 900 square feet in total livable floor space. The front, side and rear setback for a guesthouse shall be the same as those provided for a principal structure in the zoning district in which it is located. The lot on which a guesthouse is constructed must have a minimum area of 15,000 square feet. Either the original or subsequent building may be designated as a guesthouse.
- G. Any agricultural or horticultural use and the sale of produce raised on the premises.

**175-7. Conditional uses.**

Conditionally permitted uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Sec. 175-25 and 175-99 of this chapter, shall be as follows:

- A. Conversion of an existing one-family residential structure to accommodate two families, provided that the structure has been in existence for not less than five years and that the lot on which the structure is located has a minimum area of 15,000 square feet.
- B. Permanent removal of gravel, loam, clay, sand or stone under such safeguards as imposed by the Board of Appeals so as not to leave unsightly scars or be detrimental to the neighborhood.
- C. Private club operated for members only, not conducted for profit.
- D. Shop and storage building incidental to the building trades.
- E. Stand for the sale of produce primarily island-grown, provided that no offensive noise, odors, unsightliness or traffic congestion is produced.
- F. Small-scale business or industry, subject to the requirements of Sec. 175-55B.
- G. Wind energy conversion system (WECS), if it conforms to the following conditions:
  - (1) Setback requirements. This minimum setback distance for all WECS from any abutter's property line shall be (and shall continue to be for the life of the installation) at least equal to the maximum height of the machine from grade plus 20 feet. Setbacks will be measured to the center of the tower base.
  - (2) Tower access. Climbing access to the WECS tower shall be limited either by the installation of a fence with a locked gate around the tower base or by limiting tower climbing apparatus to no lower than 10 feet from the ground. If a fence is used, it shall be no lower than five feet and constructed in such a manner as to restrict passage through said fence, including such construction as stockade, woven wood, chain link, etc., but not split rail.
  - (3) Public good. The Board of Appeals may grant a special permit if the applicant demonstrates that the installation will not cause excessive noise, interference with local television and radio reception or otherwise derogate substantially from the public good.
  - (4) Maintenance. A WECS will be considered abandoned if not properly maintained for a period of two years or if designated a safety hazard by the Building Inspector. The owner of any WECS which is considered to be abandoned or designated a safety hazard shall be required to dismantle the installation. All WECSes shall be operated in a safe and reasonable manner.
  - (5) Definition. As used in this subsection, the following term shall have the meaning indicated:

WIND ENERGY CONVERSION SYSTEM (WECS) – A device which converts wind energy to mechanical or electrical energy.
- H. Farm silo over 32 feet but not over 60 feet in height, provided that it is set back far enough to avoid accidentally falling on abutting land or dwellings.
- I. Guesthouse larger than 900 square feet in total livable floor space, provided that all other requirements of Sec. 175-6F are met.

- J. One guesthouse on a lot with a single-family dwelling, which dwelling shall have been in existence for less than five years, provided that all other requirements of Sec. 175-6F are met.

**175-8. Permitted accessory uses.**

The following are permitted accessory uses:

- A. Garden house, toolhouse, greenhouse, playhouse, tennis court, wading pool and temporary or permanent swimming pool incidental to the residential use of the premises and not operated for gain.
- B. Private garages for not more than three motor vehicles. All but one passenger automobile space in such garages may be leased to persons not resident on the premises.
- C. The grazing, housing and raising of livestock, horses and other animals, provided that no part of the grazing or housing facilities are within the front yard of the lot and that the lot size is at least 60,000 square feet in area. The Building Inspector and/or the Board of Health may determine the maximum number of animals permitted on the lot.

**175-9. Bulk, area and parking requirements.**

The following are minimum requirements for bulk, area and parking:

- A. Total lot area: 1 ½ acres.
- B. (Reserved)<sup>2</sup>
- C. Front yard (setback): 50 feet.
- D. Side yards: 25 feet.
- E. Rear yard: 25 feet.
- F. Off-street parking one space for every two bedrooms.

**175-10. Prohibited uses.**

The following uses are prohibited.

- A. Transient residential facilities.

ARTICLE V  
**R-20 Residential District**

**175-11. General Provisions.**

In the R-20 Residential District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used in whole or in part for any uses except the following.

**175-12. Permitted uses.**

The following uses are permitted in the R-20 Residential District:

- A. Any uses permitted in the R-60 District.
- B. The leasing of rooms with not more than four boarders by a family residing on the premises, provided that there is no display or advertising, except as regulated in this chapter.

- C. The storage and maintenance of commercial fishing boats and gear and of boats and gear related to the marine industry on municipally owned land as approved by the Board of Selectmen and fully screened from any public way and any adjacent privately owned

<sup>2</sup> Editor's Note: Former Subsection B, which set forth minimum lot width, was repealed 4-8-1997 ATM, Art. 15, approved 9-3-1997.

property. **[Added 4-14-1998 ATM, Art. 25, approved 9-25-1998; amended 4-11-2000 ATM, Art. 14, approved 8-8-2000]**

**175-13. Conditional uses.**

Conditionally permitted uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Sec. 175-25 and 175-99 of this chapter, shall be as follows:

- A. Construction of a two-dwelling-unit structure or conversion of an existing residential single-family structure to a two-dwelling-unit structure, provided that the lot on which the structure is located has a minimum area of 15,000 square feet and provided that the conversion requirements in Sec. 175-19B are satisfactorily met.
- B. Restaurant, subject to the requirements of Sec. 175-55B.
- C. Gasoline or automobile service station, subject to the requirements of Sec. 175-55B.
- D. Private club operated for members only, not conducted for profit.
- E. Permanent removal of gravel, loam, clay, sand or stone under such safeguards as imposed by the Board of Appeals so as not to leave unsightly scars or be detrimental to the neighborhood.
- F. Boatyard, shop and storage buildings incidental to the building trades.
- G. Office of a doctor or dentist or other member of a recognized profession residing on or owning or renting the premises, provided that there is no display or advertising except as specified in Article XVI of this chapter, and provided that there is off-street parking.
- H. Small-scale business and industry, subject to the requirements of Sec. 175-55B.
- I. Stand for the sale of primarily locally raised produce, provided that no offensive noise, odors, unsightliness or traffic congestion is produced.
- J. Wind energy conversion system (WECS), as regulated by Sec. 175-7G.
- K. Farm silo over 32 feet but not over 60 feet in height, provided that it is set back far enough to avoid accidentally falling on abutting land or dwellings.
- L. Guesthouse larger than 900 square feet in total livable floor space, provided that all other requirements of Sec. 175-6F are met.
- M. One guesthouse on a lot with a single-family dwelling, which dwelling shall have been in existence for less than five years, provided that all other requirements of Sec. 175-6F are met.

**175-14. Permitted accessory uses.**

Any accessory uses permitted in the R-60 District shall be allowed subject to the same requirements, except that the grazing, housing and raising of livestock, horses and other animals shall be allowed on lots less than 60,000 square feet in area, subject to the approval of the Board



of Health, who shall determine the maximum number of animals permitted on the lot based on sanitary conditions and adjacent development.

**175-15. Bulk, area and parking requirements.**

The following are minimum requirements for bulk, area and parking:

- A. Total lot area: 21,780 square feet.
- B. (Reserved)<sup>11</sup>
- C. Front yard (setback): 30 feet.
- D. Side yards: 10 feet.
- E. Rear yard: 10 feet.
- F. Off-street parking; one space per two bedrooms.

**175-16. Prohibited uses.**

The following uses are prohibited:

- A. Transient residential facilities.

ARTICLE VI  
**R-5 Residential District**

**175-17. General provisions.**

In an R-5 Residential District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used in whole or in part for any uses except the following.

**175-18. Permitted uses. [Amended 4-12-1988 ATM, Art. 9, approved 8-30-1988]**

The following uses are permitted in the R-5 Residential District:

- A. Any use permitted in the R-60 District, except that the lot on which a guesthouse is constructed must have a minimum area of 15,000 feet.
- B. Two-family dwellings on a lot, with the usual and necessary outbuildings incidental thereto, provided that the lot has an area of at least 15,000 square feet.

**175-19. Conditional uses.**

Conditionally permitted uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Sec. 175-25 and 175-99 of this chapter, shall be as follows:

- A. Conversion of an existing residential structure to a transient residential facility or to professional offices.

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<sup>11</sup> Editor's Note: Former Subsection B, which set forth minimum lot width, was repealed 4-8-1997 ATM, Art. 16, approved 3-3-1997.

- B. Conversion of an existing one- or two-family residential structure to a maximum three-dwelling-unit structure, provided that the following conditions are satisfied in all dwelling units:
  - (1) Adequate cooking facilities.
  - (2) Provision for electrical service, water supply and full plumbing.
  - (3) Provision for built-in heating if the unit is to be occupied 220 days or more per year.
  - (4) Minimum livable floor area of four hundred (400) square feet. "Livable floor area" shall be defined as all spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars and basements. Usable floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit.
  - (5) Separate internal entrances for each dwelling unit within the structure.
  - (6) A minimum of one and one-half (1 ½) off-street parking spaces per dwelling unit.
  - (7) Any other improvements required by the Board of Appeals.
  - (8) Minimum lot size of seven thousand five hundred (7,500) square feet.
- C. New construction of an inn or hotel.
- D. Small-scale business and industry, subject to the requirements of Sec. 175-55B.
- E. Restaurants, whether of the commercial or private-club type.
- F. Recreational use for profit.
- G. The taking of boarders or the leasing of rooms by a family residing on the premises, provided that there is no display or advertising except as regulated in this chapter.
- H. Wind energy conversion system (WECS) as regulated by Sec. 175-7G.
- I. Guesthouse larger than nine hundred (900) square feet in total livable floor space, provided that all other requirements of Sec. 175-18A are met.
- J. One (1) guesthouse on a lot with a single-family dwelling, which dwelling shall have been in existence for less than five (5) years, provided that all other requirements of Sec. 175-18A are met.

**175-20. Permitted accessory uses.**

The following are permitted accessory uses:

- A. Any accessory uses permitted in the R-60 District.

**175-21. Bulk, area and parking requirements. [Amended 12-4-1986 STM, Art. 1, approved 8-3-1987]**

The following are minimum requirements for bulk, area and parking:

- A. Total lot area: ten thousand (10,000) square feet. **[Amended 4-12-1988 ATM, Art. 9, approved 8-30-1988]**
- B. Front yard (setback): twenty (20) feet. (However, no building need provide a front yard larger than the average of the front yards of existing buildings on adjacent lots on the same side of the street.)
- C. Side yards: five (5) feet.
- D. Rear yard: five (5) feet.

- E. Off-street parking spaces per dwelling unit: two (2).

ARTICLE VII

**R-120 Residential District-Chappaquiddick**

**175-22. General provisions.**

In an R-120 Residential District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used in whole or in part for any uses except the following.

**175-23. Permitted uses.**

The following uses are permitted in the R-120 Residential District:

- A. Any uses permitted in the R-60 District, except that one (1) guesthouse is permitted on a lot with a single-family dwelling only if the lot has a minimum size of three (3) acres and the dwelling has been in existence for not less than five (5) years. Such guesthouse shall not be larger than nine hundred (900) square feet in total livable floor space. The front, side and rear setback requirements for a guesthouse shall be the same as those for a principal structure in R-120. Either the original or subsequent building may be designated as a guesthouse.

**175-24. Conditional uses.**

Conditionally permitted uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Sec. 175-55 and 175-99 of this chapter, shall be as follows:

- A. Any conditionally permitted uses in the R-60 District, except that:
  - (1) The conversion to a two-family dwelling is prohibited.
  - (2) A guest house may be constructed on a lot with an area of less than three acres, provided that:
    - (a) All other requirements for a guesthouse in Sec. 175-23 are met.
    - (b) The groundwater well and the sanitary disposal system shall each be located at least 200 feet from any groundwater well and any sanitary disposal system and 200 feet from any saltwater body.
    - (c) No portion of a sanitary disposal system shall be located less than five feet above minimum groundwater level.
    - (d) The guesthouse, including its sanitary disposal system and driveways, will not pollute the soil, surface water or groundwater of neighboring properties and will not increase surface erosion of neighboring properties.

**175-25. Permitted accessory uses.**

The following are permitted accessory uses:

- A. Any uses permitted in the R-60 District, except that the grazing and housing of animals shall not be subject to the location restrictions on the lot.

**175-26. Bulk, area and parking requirements.**

The following are minimum requirements for bulk, area and parking:

- A. Total lot area: three acres.
- B. Front yard (setback): 50 feet.
- C. Rear yard (setback): 25 feet.
- D. Side yards (setback): 25 feet.

**175-27. Height of structures. [Amended 10-29-1998 STM, Art. 13, approved 3-1-1999]**

- A. Maximum height of structures as measured vertically from the mean natural grade in the same area as the proposed structure shall be as follows: 26 feet for a pitched roof and 18 feet for a flat or shed roof with a slope of four in 12 or less.
- B. The Zoning Board of Appeals may grant a special permit to increase the height of a structure to a maximum of 32 feet in specific instances. In considering a special permit, the Zoning Board of Appeals shall require the applicant to:
  - (1) Provide evidence that a structure higher than 26 feet for a pitch roof and 18 feet for a flat or shed roof with a slope of four in 12 or less would not extend above the average height of vegetation, as accurately measured on the site, that would exist around the structure after construction.
  - (2) Demonstrate graphically that the finished structure exposed by likely tree clearing would not be prominently visible from other public or private lands or water bodies.

**175-28. Prohibited areas.**

The following uses are prohibited:

- A. Transient residential facilities.

ARTICLE VIII  
**RA-120 Residential District**

**175-29. General provisions.**

In a RA-120 Residential District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used in whole or in part for any uses except the following.

**175-30. Permitted uses.**

The following uses are permitted in the RA-120 Residential District:

- A. Any uses permitted in the R-60 District, except that the construction of a farm silo over 32 feet but not over 60 feet is also permitted, provided that it is set back far enough to avoid accidentally falling on abutting land or dwellings.

**175-31. Conditional uses.**

Conditionally permitted uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Sec. 175-25 and 175-99 of this chapter, shall be as follows:

- A. Any conditionally permitted uses in the R-60 District, except for the conversion to a two-family dwelling.

**175-32. Permitted accessory uses.**

The following are permitted accessory uses:

- A. Any uses permitted in the R-60 District, except that the grazing and housing of animals shall not be subject to the location restrictions on the lot.

**175-33. Bulk, area and parking requirements.**

The following are minimum requirements for bulk, area and parking:

- A. Total lot area: three acres.
- B. Front yard (setback): 50 feet.
- C. Rear yard (setback): 25 feet.
- D. Side yards (setback): 25 feet.

**175-34. Prohibited uses.**

The following uses are prohibited:

- A. Transient residential facilities.

ARTICLE IX

**B-I Business District**

**175-35. General provisions.**

The B-I District is intended to provide a compact pedestrian-oriented environment for a mixture of residential and business uses servicing Edgartown's year-round population and visitors. In the B-I Business District, no development shall be allowed except as follows.

**175-36. Permitted uses.**

The following uses are permitted in the B-I Business District:

- A. Principal and accessory uses permitted in the R-5 Residential District, except those uses which require a special permit under Sec. 175-37. **[Amended 4-10-2001 ATM, Art. 14, approved 9-25-2001]**
- B. Any other principal or accessory use not included under Sec. 175-37 or 175-38 below.

**175-37. Conditional uses.**

The following are conditionally permitted uses by special permit from the Board of Appeals:

- A. Business use of more than 1,500 square feet floor area not in such use January 1, 1984, whether through new construction, addition or conversion to business from residential use.
- B. Inn or hotel.
- C. Restaurant including fast-food restaurant only if pedestrian-oriented, evidenced by location on premises having no more than six off-street parking spaces and having no drive-through facilities.

- D. Additions or alterations of more than 150 square feet to structures existing as of January 1, 1984, or replacements thereto if the ratio of total floor area of the structure with such additions or alterations to total area of the lot exceeds 1.0.
- E. Uses requiring special permits under other sections of the Zoning Bylaw [wind energy conversion systems (Sec. 175-7G), accessory scientific use (Sec. 175-60), outdoor dining (Sec. 175-61), and Coastal District uses (Sec.175-77)].

**175-38. Prohibited uses.**

The following uses are prohibited:

- A. Other fast-food restaurants. (See definitions, Sec. 175-3.)
- B. Drive-in or drive-through facilities for restaurants, banks or other uses.
- C. Automobile gas or service facilities. **[Amended 4-9-1996 ATM, Art. 14, approved 7-23-1996]**

**175-39. Bulk, area and parking requirements.**

- A. Total lot area shall be not less than 5,000 square feet. However, provided that all other provisions of this chapter are complied with, addition of up to 1,500 square feet to a structure existing as of January 1, 1984 (or replacements thereto), on a smaller lot does not require a special permit as provided at Sec. 175-58C and D.
- B. Within 10 feet of a street right-of-way (other than Main Street, for which there is no requirement), only the following shall be allowed:
  - (1) A building or portion of a building no closer to the street line at that point than a building existing on the premises January 1, 1984.
  - (2) One or two driveways not exceeding 14 feet in width, approximately perpendicular to the street.
  - (3) Pedestrian areas, terraces or landscape areas.
  - (4) On special permit, outdoor eating areas.
- C. Side and rear yard setbacks shall equal five feet minimum, except that on special permit those yards may be reduced to zero for party wall or similar construction, provided that adequate access is assured for fire or other emergency and public services.
- D. Floor area below ground level may be used as follows: **[Amended 4-8-1997 ATM, Art. 21, approved 9-3-1997]**
  - (1) Uses in accordance with Sec. 175-36 (permitted uses) and Sec. 175-37 (conditionally permitted uses) are allowed only when the room involved has direct egress at ground level and less than half the exterior wall area of that room is below ground level.
  - (2) The following accessory and incidental uses are otherwise allowed below ground level when they are accessory and incidental to a business on the premises which is primarily located in space at or above ground level and when the public is not invited to do business in these spaces:
    - (a) Storage.
    - (b) Offices.
    - (c) Production facilities, such as but limited to, artisan studios, woodshops, sewing shops, or looming shops.

- (3) Bathrooms.
- E. The ratio of total floor area (measured from exterior faces of the structure) on all floors of the structure to total lot area shall not exceed 1.0. Any basement used for commercial space, as allowed in Subsection D(2) or (3), shall not be calculated as part of the total floor area. This ratio shall not apply to structures existing as of January 1, 1984, or replacements thereto. However, any additions or alterations which exceed 150 square feet to structures existing as of January 1, 1984, or replacements thereto shall require a special permit if the ratio of total floor area with such additions or alterations to total area of the lot exceeds 1.0. **[Amended 4-8-1997 ATM, Art. 22, approved 9-3-1997]**
- F. At least one (1) off-street loading space must be provided for any use requiring a special permit (see Sec. 175-37) or for any restaurant.
- G. Off-street parking must be provided as follows to service all increases in required spaces resulting from new construction, additions or change of use to one requiring more parking without counting any existing spaces needed to meet requirements for existing building and use. Any existing spaces removed shall be replaced in kind unless in excess of the number required.
- (1) Retail sales or service establishments: one (1) parking space for each five hundred (500) square feet of gross floor area or any fraction thereof.
  - (2) Place of public assembly: one (1) space for each eight (8) seats therein.
  - (3) Restaurants, bars, eating places: one (1) space for each six (6) seats therein.
  - (4) Office or professional use: one (1) space for each four hundred (400) square feet of gross floor area.
  - (5) Inns and hotels: one (1) space for each guest unit, plus one (1) space for each eight (8) guest units or fraction thereof.
  - (6) Dwellings: one (1) space for each two (2) bedrooms.
  - (7) Other uses: half the number of spaces normally necessary if wholly dependent on on-site parking, as determined by the Building Inspector with the advice of the Planning Board.
- H. **[Amended 6-7-1994 STM, Art. 7, approved 9-13-1994]** Off-street parking requirements may be met in any one (1) or combination of the following ways:
- (1) On-site.
  - (2) Off-site, which may be shared with other uses, provided that a lease or other binding agreement is on file with the Edgartown Zoning Inspector.
  - (3) By special permit from the Zoning Board of Appeals, the required number of parking spaces may be modified where an applicant demonstrates that the lesser parking provision is necessary for the reasonable development of the parcel and that such lesser provision of parking will not cause substantial detriment to the area.

**175-40. Special permit considerations.**

Special permits shall be granted in the B-I District only upon the special permit granting authority's written determination that the proposal will not have adverse effects which

overbalance its benefits to the town, after consideration of the following, among other, questions:

- A. Activity.
  - (1) Will the proposal contribute to the diversity of services available in the district?
  - (2) Will the proposal provide service to or employment for the year-round population?
  - (3) To what extent will the proposal add to summer traffic congestion, considering the location, the extent of single purpose trips likely to be attracted and any special access provisions committed, e.g., bike storage facilities, employee ride sharing.
- B. Site design.
  - (1) Are views from public ways and developed properties considerately treated?
  - (2) Are existing trees or other important natural features protected?
  - (3) Is pedestrian movement facilitated, avoiding interruption by access drives or other impediments?
  - (4) Is street-edge continuity maintained through building location, hedges, fences or other devices?
- C. Building design.
  - (1) Are views from the public ways and developed properties considerately treated?
  - (2) Do materials match the appearance of one (1) of the predominant materials in the district?
  - (3) Do massing, breaks in wall and roof planes and use of additive massing preserve domestic scale in massing, and do architectural features preserve such scale in their design?<sup>12</sup>

#### ARTICLE X

##### **B-II Upper Main Street District**

**[Amended 9-12-1989 STM, Art. 16, approved 1-8-1990]**

#### **175-41. General provisions.**

The B-II Upper Main Street District is intended to provide existing and future businesses while at the same time preserving the small town characteristics of the entrance to the town center and continuing a mixture of residential and nonresidential uses. It is the intent of this Article to promote the purposes of the B-II Upper Main Street District Master Plan prepared by the Planning Board in association with Dodson Associates, 1989, as may be amended or revised, with regard to all design principles contained in the Master Plan. Applicants for permits in the B-II District are strongly encouraged to review this Master Plan prior to submitting documents for review. In the B-II Upper Main Street District, no development shall be allowed except as follows:

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<sup>12</sup> Editor's Note: Former Sec. 9.6, Business Moratorium (B-I), which originally followed this subsection, had an expiration date of April 30, 1986.



**175-42. Permitted uses.**

The following uses are permitted:

- A. Any uses permitted in the R-5 District.
- B. Public parks, public playgrounds and noncommercial recreational or fraternal buildings.
- C. Religious and educational uses. **[Amended 9-26-1994 STM, Art. 8, approved 3-2-1995]**

**175-43. Uses permitted by special permit from Planning Board.**

- A. New construction of structures containing the following uses shall require a special permit:
  - (1) Retail and service stores.
  - (2) Offices.
  - (3) Eating establishments.
  - (4) Banks.
  - (5) Transient residential facilities.
  - (6) Light manufacturing, wholesale or storage facilities of less than three thousand (3,000) square feet gross floor space.
  - (7) Gas stations, automotive repair shops or salesrooms.
  - (8) Movie theaters, playhouses and other centers for the performing arts.
  - (9) Nursery, horticulture uses on parcels of less than five (5) acres.
  - (10) Commercial recreation facilities, except as provided in Sec. 175-44.
  - (11) Apartments.
  - (12) Farmers' markets or similar outdoor markets, provided that such use does not exceed thirty (30) days per calendar year.
  - (13) Uses which have attributes (particularly, parking requirements, traffic generation and scale of structures) substantially similar to a use permitted as of right or by special permit in Sec. 175-42 or 175-43 herein.
  - (14) Municipal or governmental uses. **[Added 9-26-1994 STM, Art. 8, approved 3-2-1995]**
- B. Conversion of a residential structure to a commercial structure containing any of the uses in Subsection A shall require a special permit. **[Added 4-14-1992 ATM, Art. 15, approved 9-3-1992]**
- C. Expansion or alteration of a nonconforming use if such expansion or alteration would create a need for any of the features set forth in Subsection D(1)(a) through (c) below shall require a special permit. **[Added 4-14-1992 ATM, Art. 15, approved 9-3-1992]**
- D. Changes of use not requiring a special permit. **[Amended 4-14-1992 ATM, Art. 15, approved 9-3-1992]**
  - (1) Any change of use from one category of special permit use set forth in Subsection A to a different category in said subsection, regardless of whether the use was previously authorized by special permit or the use was previously authorized by special permit or the use is now nonconforming, shall not require a special permit unless such change would create a need for any of the following:
    - (a) Any additional parking or loading;
    - (b) Any addition of more than 10% of the gross floor area of the structure housing the use; or

- (c) Any substantial change to the buffer or screening of the structure or use.
- (2) The burden of proof shall be upon the property owner to demonstrate that no such modifications shall occur.
- (3) (Reserved)<sup>13</sup>
- (4) This Subsection D is not applicable to the expansion, alteration or change of nonconforming structures which is governed by Sec. 175-46.1 below.
- E. Special permits for certain businesses. **[Added 9-26-1994 STM, Art. 9, approved 3-2-1995; amended 4-8-1997 ATM, Art. 20, approved 9-3-1997]**
  - (1) Notwithstanding anything to the contrary in Article X, special permits are required in all circumstances, including new construction, conversion of a residential structure to a commercial structure, expansion or alteration of a nonconforming use, or change of use from one category of use to another, where the primary or principal use is as follows:
    - (a) Retail sale of ice cream or frozen yogurt.
    - (b) Gas stations.
    - (c) Rental of video tapes or disks.
    - (d) Retail sale of groceries or prepackaged food or drink for consumption either on the site or off-site.
  - (2) Any internal floor plan changes or external or site modification of such businesses shall require a special permit, unless such change is found insubstantial by a majority vote of the Planning Board.
  - (3) This Subsection E is not applicable to the expansion, alteration, or change of nonconforming structures which is governed by Sec. 175-46.1 below.

**175-44. Prohibited uses.**

The following uses are prohibited.

- A. Amusement parks, drive-in movie theaters or other similar recreational facilities.
- B. Any use which is noxious, offensive or causes a nuisance.
- C. All others not included in Sec. 175-42 or 175-43.

**175-45. Special permit procedures.**

- A. Application. Applications for special permits for new construction of a use set forth in Sec. 175-43A and applications for changes from one category of use permitted by special permit in Sec. 175-43A to another category (unless exempted by Sec. 175-43D) shall be accompanied by seven copies of a development plan. Unless waived by the Planning Board

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<sup>13</sup> Editor's Note: Former Subsection D(3), added 9-26-1994 STM, Art. 9, approved 3-2-1995, which required special permits for certain businesses, was redesignated as Subsection E 4-8-1997 ATM, Art. 20, approved 9-3-1997.

in writing for unusually simple circumstances, plans subject to this section shall show the following existing and proposed features:

- (1) All boundary line information pertaining to the land sufficient to permit location of the same on ground, including assessors map and lot number information.
- (2) Existing and proposed topography at two-foot contour intervals.
- (3) Water provision, including fire protection measures.
- (4) Sanitary sewerage.
- (5) Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's Subdivision Rules and Regulations.<sup>14</sup>
- (6) Parking and loading spaces, access and egress provisions (including location of curb cut), walkways and existing parking areas of adjacent lots.
- (7) Planting, landscaping and screening.
- (8) Location of existing and proposed buildings, with information on gross lot coverage.
- (9) First floor plans and architectural elevations of buildings, location proposed signs with dimensions, proposed lighting and presentation of building façade from the street providing frontage.
- (10) Sufficient information to ensure compliance with all applicable provisions of this chapter.

- B. Preparation of development plan. Development plans shall be submitted on sheets of twenty-four by thirty-six (24x36) inches. Plans shall be prepared by a registered architect, registered landscape architect, registered professional engineer, registered land surveyor or other design professional deemed acceptable by the Planning Board. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. The Planning Board may waive the requirements of Subsection A and this subsection where no exterior change will be made to an existing building and the lot on which the use is located.

**175-46. Conditions.**

No application for a special permit for new construction or change from one category of special permit use to another (unless exempted by Sec. 175-43D) shall be considered by the Planning Board unless all proposed construction or change, as evidenced by the development plan, conforms to all of the following conditions:

- A. Dimensional and other lot requirements.
- (1) Total lot area shall not be less than six thousand five hundred (6,500) feet.
  - (2) More than one (1) principal structure may be placed on a lot, provided that the applicant demonstrates that:

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<sup>14</sup> Editor's Note: See Ch. 202, Subdivision of Land.

- (a) Required parking for the lot shall be located not forward of the front line of any structure(s) on that lot or on an adjacent lot or contiguous lots. **[Amended 9-26-1994 STM, Art. 10, approved 3-2-1995]**
  - (b) No principal structure shall be located in relation to another principal structure on the same lot or on an adjacent lot, so as to cause danger from fire.
  - (c) All of the multiple principal structures on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises and to each principal structure.
- (3) In order to reflect traditional setbacks along Upper Main Street, to create an architectural edge to the B-II District and to screen (to the extent feasible) parking and access ways from public view, structures shall be set back not more than forty (40) feet nor less than twenty (20) feet from the street pavement line, except that a structure need be set back no further than any structure existing on the premises on April 11, 1989, if less, or no further than the average of the setbacks on adjacent lots, if less. No structure shall be located within (10) feet of side or rear property lines shared with a residentially zoned or used property. Where an applicant demonstrates that greater front setbacks or lesser side or rear setbacks are necessary for the reasonable development of the parcel, the Planning Board may modify such requirements, provided that access is assured for fire and other such emergencies.
  - (4) At least twenty percent (20%) of the lot shall consist of open space dedicated to natural or pedestrian use. Buildings, parking lots, access ways and other uses shall be located as to leave the remaining open space in as usable and contiguous a form as is feasible.
  - (5) No sign shall be located within fifteen (15) feet of the requirements in Article XVI herein.
- B. Parking, loading and access requirements.
- (1) Required parking areas shall not be located forward of any building front line on that lot or an adjacent lot or contiguous lots, except that, where an applicant demonstrates that some parking could be located forward of the building front line without substantially deviating from the intent of the Master Plan, the Planning Board may modify this requirement. **[Amended 9-26-1994 STM, Art. 10, approved 3-2-1995]**
  - (2) All required parking areas, except those serving residential premises, shall be dustless, durable, composed of an all-weather surface, designed to adequately handle drainage and designed to prevent dust, erosion, water accumulation or unsightly conditions. In parking areas with eight (8) or more spaces, individual spaces shall be delineated by painted lines, wheel stops or other means.
  - (3) Off-street parking shall be provided in accordance with or shall exceed the following schedule. Where an applicant demonstrates that lesser parking provision is necessary for the reasonable development of the parcel and that such lesser provision will not cause substantial detriment to the area, the Planning Board may modify such requirements.
    - (a) Retail sales and service establishments: one (1) parking space per three hundred fifty (350) square feet of gross floor area or any fraction thereof.
    - (b) Places of public assembly: one (1) space per four (4) seats of occupancy.

- (c) Restaurants, bars, eating places: one (1) space per three (3) seats therein.
  - (d) Office or professional use, banks: one (1) space per two hundred fifty (250) square feet or gross floor area or any fraction thereof.
  - (e) Inns and hotels: one (1) space per guest unit, plus one (1) space per each twelve (12) guest units or any fraction thereof.
  - (f) Dwellings: one (1) space per two (2) bedrooms or fraction thereof.
  - (g) Other uses: spaces in accordance with anticipated needs as determined by the Building Inspector after consultation with the Planning Board.
- (4) Parking areas shall contain 10% planted areas, exclusive of the open space required in Subsection A(4).
  - (5) For parking areas of 15 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per three parking spaces or fraction thereof. Such bicycle rack(s) may be located within the parking area or in another suitable location as deemed appropriate by the Planning Board.
  - (6) Adequate off-street loading facilities and space shall be provided to service all needs created by new construction, whether through additions, change of use or new structures. Facilities shall be so sized and arranged that no vehicles need regularly to back onto or off of a public way or be parked on a public way while loading, unloading or waiting to do so.
  - (7) To the extent feasible, lots and parking areas shall be served by common private accessways, in order to minimize the number of curb cuts in the B-II District. Such common accessways shall be in conformance with the functional standards of the Subdivision Rules and Regulations<sup>15</sup> of the Planning Board for road construction, sidewalks and drainage. Proposed documentation (in the form of easements, covenants or contracts) shall be submitted with the application demonstrating that property maintenance, repair and apportionment of liability for the common accessways and any shared parking areas has been agreed upon by all lot owners proposing to use the common accessway. Common accessways may serve any number of adjacent parcels deemed appropriate by the Planning Board.
- C. Screening, buffers and landscaping
- (1) Parking lots, loading areas, storage areas, refuse storage and disposal areas and service areas shall be screened from view, to the extent feasible, from all public ways and from adjacent residentially zoned or occupied properties, by the use of planted buffers of at least 10 feet in width. Planted areas intended to provide screening shall contain trees or shrubs of a species common to the area and appropriate for screening, spaced to minimize the visual intrusion. In lieu thereof, screening may be provided by fences or walls, location or a combination thereof, with or without buffer strip 10 feet in width.

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<sup>15</sup> Editor's Note: See Ch. 202, Subdivision of Land.

Fences shall be no higher than six feet and of design and materials consistent with the architecture and landscape of Edgartown.

- (2) Required front yards and required plantings in parking areas shall be landscaped by planting of grass and shade trees, of species common to the area, and maintained in a slightly condition at all times.

D. Building design and use.

- (1) Floor area below ground level may be used in accordance with Sec. 175-42 (permitted uses) and Sec. 175-43 (conditionally permitted uses) as long as the business in the below ground level area is an extension of the existing first floor business and is owned and operated by the owner of the first floor business. **[Amended 4-8-1997 ATM, Art. 23, approved 9-3-1997; 10-29-1998 STM, Art. 11, approved 3-1-1999]**
- (2) The total floor area (measured from exterior faces of the structure) on all floors of a structure (other than a basement) shall not exceed 50% of the total lot area. Any basement used for commercial space, shall not be calculated as part of the total floor area for the purposes of this section of the Zoning Chapter. Notwithstanding the above, the total floor area of structure may exceed 50% of the total lot area, but not more than 80% of the total lot area, provided that the applicant demonstrates that the lot shall be served by common accessways, as set forth in Subsection B(7), or shared parking areas with adjacent premises. **[Amended 4-8-1997 ATM, Art. 24, approved 9-3-1997; 10-29-1998 STM, Art. 11, approved 3-1-1999]**
- (3) Buildings shall be oriented towards both the required parking area serving the premises and the front yard of the structure in order to facilitate access for pedestrians. Signage, walkways and entrances/egresses shall be provided at both locations, unless this requirement is waived by the Planning Board.
- (4) Frontal dimensions of principal structures shall be approximately parallel to Upper Main Street or other nearby street providing frontage for the lot.
- (5) The scale of small businesses shall be maintained in the case of structures exceeding 2,000 gross square feet of floor area, through architectural devices such as breaks in wall and roof lines, varied floor plans and other techniques.
- (6) Structures shall maintain consistent appearance with other structures in the area and the Town as to primary wall and roof materials and color.
- (7) Conversion of existing residential structures to commercial structures or use shall retain the existing structure to the extent feasible.

**175-46.1. Expansion, alteration or change of nonconforming structure and uses. [Amended 4-14-1992 ATM, Art. 15, approved 9-3-1992]**

No alteration, expansion or change of a nonconforming structure or use, except as exempted in Sec. 175-43C or 175-43D, shall be permitted unless a special permit is granted by the Planning Board after finding that such expansion, alteration or change shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood. Expansion, alteration or change of preexisting structures shall retain the character and scale of other structures located within or near the B-II District, as described in the Master Plan.

**175-46.2. Decision.**

In order to reach a conclusion under the general criteria for issuance of a special permit set forth in Sec. 175-100 below, the Planning Board shall consider whether the proposed use or change would have any of the following beneficial or adverse impacts on the B-II Upper Main Street District and the Town:

- A. Promote development consistent with the character and scale of traditional structures in Edgartown, as viewed from public ways.
- B. Maintain consistent appearance with other structures in the area and the Town as to primary wall and roof materials and color.
- C. Reduce, to the extent feasible, the number of curb cuts in the District.
- D. Reduce intrusion from commercial structures, lighting and parking areas on adjacent residentially zoned or occupied properties.
- E. Promote traffic and pedestrian safety.
- F. Promote scenic views from publicly accessible locations.

ARTICLE XI

**B-III Light Industrial and Service District**

**[Amended 4-11-1995 ATM, Art. 16, approved 7-6-1995]**

**175-46.3. Area. [Added 4-14-1998 ATM, Art. 27, approved 9-25-1998; amended 10-29-1998 STM, Art. 15, approved 3-22-1999]**

The B-III District is located on the Martha's Vineyard Airport property and includes all of that property within Edgartown except for the area defined in the Zoning Chapter as the B-IV District.

**175-47. General Provisions.**

The B-III Light Industrial and Service District, located at the Martha's Vineyard Airport, is intended to provide a location for commercial activities such as light industry, storage, services and trades which are essential to the Island but which may not be appropriate in residential districts or other Island business districts because of space requirements or potential nuisance. The B-III District is intended to provide for the type of commercial space and activity that cannot be found or located in other business districts but which adds to the Island's economic vitality without detracting from the viability of other business areas. In the B-III District, no development shall be allowed except as follow.

**175-48. Permitted uses.**

The following uses are permitted:

- A. Aviation facilities and aviation-related uses.
- B. Light manufacturing and light industrial facilities.
- C. Storage facilities.
- D. Parking and storage of light, medium or heavy equipment.
- E. Boatyards.

- F. Boat and boat equipment sales and showrooms.
- G. Gas stations including a convenience store. [Amended 6-15-1999 STM, Art. 9, approved 8-27-1999; 4-11-2000 ATM, Art. 16, approved 8-8-2000]
- H. Automobile, truck, heavy equipment and vehicle sales and showrooms.
- I. Furniture sales and showrooms.
- J. Appliance sales and showrooms.
- K. Commercial or commissary kitchens, with no retail sales on the premises.
- L. Fish and agricultural products buying and processing and other food processing.
- M. Animal hospitals, boarding and grooming.
- N. Wind energy conversion systems (WECS).
- O. Sale of goods manufactured or assembled on the premises, as long as the retail sales area is no more than 10% of the floor area of the manufacturing area and in no event shall exceed 500 square feet.
- P. Artists' and artisans' studios, including display and sales space for the artists' or artisans' work not exceeding 10% of the floor area of the total studio space.
- Q. Amusement facilities or other commercial recreational facilities.
- R. Indoor commercial athletic facilities, including health clubs.
- S. Reclamation and recycling services and facilities.
- T. Commercial laundries, dry-cleaning facilities and laundromats.
- U. Agriculture, horticulture, floriculture and viticulture.
- V. Service businesses as follows:
  - (1) Full-service automotive or truck facilities.
  - (2) Auto or truck service such as repair, lubrication and body shop.
  - (3) Boat service, repair and storage.
  - (4) Rental of cars, trucks, light or heavy equipment or part supplies (tents, chairs, etc.).
  - (5) Landscaping services.
  - (6) Appliance and mechanical equipment service and repair.
  - (7) Maintenance and repair of goods assembled or manufactured on the premises.
  - (8) Plumbing, heating, carpentry, electrical, boatbuilding, dockbuilding and other similar service trades.

**175-49. Conditionally permitted uses.**

The following are conditionally permitted uses:

- A. Municipal and government uses.
- B. Residential uses.
- C. Dormitory housing, subject to the following criteria: **[Added 4-14-1998 ATM, Art. 23, approved 9-25-1998]**
  - (1) No larger than 100 beds per building.
  - (2) Built and maintained by an organization, either public or private, which will have on-going responsibility for care of the building and conduct of the residents, which will be assured by covenant with the Airport Commission.
  - (3) A resident manager on site at all times.



- (4) One parking space for each four beds.
- (5) Bike rack will be provided.
- (6) Any one occupancy shall be no longer than eight months.
- (7) Occupancy must be tied to verifiable employment on the Island.

**175-49.1. Bulk, dimensional and site requirements.**

- A. The Town recognizes that the land in Edgartown zoned as the B-III District is a single parcel owned by the County of Dukes County and that interior portions of the parcel may be leased by the county to commercial tenants according to site and design guidelines of the county.
- B. For the purposes of this chapter, setbacks from the exterior boundaries of the parcel shall be as follows:
  - (1) Eastern boundary: 200 feet in, from and parallel to Barnes Road shall be maintained as a no-cut no-build zone. No structures or roads may be built (except for three access roads) in this zone. Trees, bushes and other vegetation may not be cut, and when trees or shrubs are lost they shall be replaced with similar trees or shrubs to provide a dense natural vegetation screen between Barnes road and the interior commercial portions of the property.
  - (2) Southern boundary: 200 feet in, from and parallel to the Edgartown – West Tisbury Road shall be a no-build zone. In the first 100 feet parallel to the Edgartown – West Tisbury Road, no structures or roads may be built (except for up to three access roads). The second 100 feet in, from and parallel to the Edgartown – West Tisbury Road shall be a no-cut no-build zone; no structures or roads may be built (except for three access roads) in this zone. Trees, bushes and other vegetation may not be cut in this zone, and when trees or shrubs are lost they shall be replaced with similar vegetation to maintain a dense natural vegetation screen between the Edgartown – West Tisbury Road and the interior commercial portions of the property.

ARTICLE XI-A

**B-IV Trades District**

**[Amended 4-14-1998 ATM, Art. 26, approved 9-25-1998; amended 10-29-1998 by STM, Art. 14, approved 3-22-1999]**

**175-49.2. Area.**

The B-IV District is a triangle of land in the southwestern part of the Edgartown portion of the airport property bounded as follows: by a line beginning at a point on the West Tisbury Road 500 feet east of the Edgartown-West Tisbury Town line and running east along the West Tisbury Road for 1,000 feet; and also by a line running from that beginning point 1,200 feet north at right angles to the West Tisbury Road; and by a line connecting the end points of these two lines so as to form the hypotenuse of a right triangle, running northwest to southeast.

**175-49.3. Purpose. [Amended 4-10-2001 ATM, Art. 15, approved 9-25-2001]**

The district is established to provide a location for tradespeople to store and maintain equipment associated with their trades and a location for seasonal worker housing. The district is intended to

provide for the local tradespeople to store equipment and supplies and for seasonal worker housing which may be considered inappropriate for a residential neighborhood or the existing retail districts but which provide and support essential services and businesses on the Island. The district is wholly located in public land and is appropriate to support those services vital to the community but which cannot be located elsewhere.

**175-49.4. Permitted uses.**

Only the following uses and structures are permitted:

- A. Aviation facilities and aviation related uses.
- B. Parking and storage of light, medium or heavy equipment.
- C. Outdoor storage and maintenance of equipment, materials and supplies related to their trades by tradespeople, including but not limited to: carpenters, electricians, painters, plumbers, masons, dockbuilders, landscapers, welders, arborists, and loggers.
- D. Buildings associated with the trades listed above to be used for:
  - (1) Indoor storage and maintenance of equipment.
  - (2) Office associated with the tradesperson on site but not intended for or used for doing business with the public.

**175-49.5. Conditional uses. [Added 4-10-2001 ATM, Art. 15, approved 9-25-2001]**

- A. Dormitory housing, subject to the following criteria:
  - (1) No larger than 100 beds per building.
  - (2) Built and maintained by an organization, either public or private, which will have on-going responsibility for care of the building and conduct of the residents, which will be assured by covenant with the Airport Commission.
  - (3) A resident manager on site at all times.
  - (4) Bike rack will be provided.
  - (5) Any one occupancy shall be no longer than eight months.
  - (6) Occupancy must be tied to verifiable employment on the Island.

**175-49.6. Prohibited uses.**

- A. Storage of hazardous waste.
- B. Direct service of customers on site.
- C. Any use not specifically permitted in Sec. 175-49.4.

**175-49.7. Bulk, dimensional and site requirements. [Amended 4-10-2001 ATM, Art. 15, approved 9-25-2001]**

The Town recognizes that the land in Edgartown zoned as the B-IV Trades District is owned by the County of Dukes County and that interior portions of the land may be leased to commercial tenants according to site and design guidelines established by the Martha's Vineyard Airport Commission and/or the county. For the purposes of this article, within the B-IV Trades District:

- A. Setback from the southern boundary of the district: 200 feet in, from and parallel to the Edgartown-West Tisbury Road shall be a no-build zone. In the first 100 feet parallel to the

Edgartown-West Tisbury Road no structures or roads may be built. The second 100 feet in, from and parallel to the Edgartown-West Tisbury Road shall be a no-cut-no-build; no structures or roads may be built in this zone. Trees, bushes and other vegetation may not be cut in this zone and when trees or shrubs are lost they shall be replaced with similar vegetation to maintain a dense natural vegetation screen between the Edgartown-West Tisbury Road and the interior commercial portions of the District.

- B. All permitted uses shall be sited in conformity with the requirements of the Martha's Vineyard Airport Commission and/or the County of Dukes County.

ARTICLE XII  
**General Regulations**

**175-50. Subdivision of lots.**

Whenever a new lot or lots is or are formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner as not to impair any of the requirements of this chapter and shall be in accordance with the Subdivision Regulations of the Town of Edgartown, as follows:

- A. The subdivision of a parcel or adjacent parcels in any district shall not exceed 10 lots if resulting from division or combination of properties which were in the same ownership and contiguous as of the date of first publication of notice of public hearing on this chapter in any twelve-month period. This provision shall apply to all subdivisions within the Town, even if approval under the Subdivision Control Law is not required.
- B. Subdivisions in excess of 10 lots may be allowed without special permit of the Planning Board, provided that the owner thereof covenants with the Planning Board that he will not convey or build upon more than 10 lots in any twelve-month period. The covenant shall identify the lots that may be conveyed or built upon in each twelve-month period.
- C. Subdivisions in excess of 10 lots may be allowed by special permit after notice and hearing before the Planning Board, provided that the Board determines that the probable benefits to the Town outweigh the probable adverse effects resulting from granting such permit. The Planning Board shall consider the impact on schools, other public facilities, traffic and pedestrian travel, the availability of public water and sewers, recreation facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development and housing for senior citizens and people of moderate income.
- D. Relation to real estate assessment. Any landowner who has been denied a development permit because of these provisions may appeal to the Board of Assessors, in conformity with MGL C. 59, Sec. 59, for a determination as to the extent to which the temporary restrictions on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation and for abatement as determined to be appropriate.
- E. Zoning change protection. The protection against subsequent zoning change granted by MGL C. 40A, Sec. 6, to land in a subdivision shall, in the case of a development whose completion has been constrained by Subsection A, or subject to the covenant as provided in Subsection B, be extended to the minimum time for completion allowed under those sections. Lots created

prior to January 1, 1980, may be afforded this protection if voluntarily made subject to a special permit.

- F. Frontage. All lots created after April 9, 1985, will have a minimum frontage of 50 feet on a street.

**175-51. Principal buildings on same lot.**

No lot in R-50, R-20 or R-60 Districts shall contain more than one principal building or structure.

**175-52. Height of buildings; exceptions.**

- A. The height of any structure created in any district shall not exceed 32 feet for a pitched roof or 24 feet for a flat roof. Any roof with less than a four-inch pitch per foot will be considered a flat roof. However, these dimensions may be exceeded by special permit so as to conform to the average height of existing principal buildings fronting on the same street or within 500 feet of the premises.
- B. The Board of Appeals may grant a special permit for an exception from these requirements upon its determination that an increase in height will not create undesirable conditions caused by overshadowing or loss of privacy and that utility and protective services will be adequate.
- C. Height shall be measured as the vertical distance from the mean level of ground in its natural state prior to construction to the highest point of the roof.
- D. Chimneys, spires, vent pipes and other similar appurtenances may have an additional eight feet above the highest point of the roof. Antennas and weather devices shall be exempt from this restriction.

**175-52.1. Elevated decks and elevated porches. [Added 4-14-1998 ATM, Art. 24, approved 9-25-1998; amended 10-29-1998 STM, Art. 12, approved 3-1-1999]**

- A. Definition. For the purposes of this section, an elevated deck or elevated porch is any walking surface larger than four feet by four feet and more than seven feet six inches above the average mean natural grade.
- B. Elevated decks and elevated porches which meet the following criteria are permitted:
  - (1) They shall be constructed above livable area, including first floor porches.
  - (2) They shall be accessed only from inside the dwelling through a door or doors with minimum dimensions of two feet eight inches by six feet six inches.
  - (3) The walkable surface area of the deck or elevated porch shall not be higher than the level of the second floor of the dwelling.
- C. Exception. Elevated decks or elevated porches not meeting these criteria may be granted a special permit by the special permit granting authority, provided that the proposed deck or elevated porch is based on historical precedent, such as a widow's walk, or is designed as an integral part of the dwelling and, in the opinion of the special permit granting authority, is not out of keeping with the architecture of Edgartown.

**175-53. Corner clearances.**

In no district shall any building or new fencing be built or old fencing repaired beyond 3 ½ feet in height on corner lots within 15 feet of the corner, except such as does not obstruct the view. No shrubbery or foliage shall be maintained within the heights of 3 ½ feet and eight feet at such locations. The heights as herein mentioned are to be taken as meaning the heights above the adjacent level.

**175-54. Conversion of existing conforming structures.**

Change of use within any conforming existing structure, whether involving physical conversion or not, shall be subject to the same zoning regulations as apply to new structures. Where a special permit is required, the special permit granting authority shall adhere to the requirements of Sec. 175-55.

**175-55. Conditionally permitted uses.**

The special permit granting authority may grant any applicant therefore a special permit to make use of his land or to effect or maintain structures thereon for the purposes stated in this chapter under conditionally permitted uses, as follows:

- A. The special permit granting authority shall grant such a special permit only if, after public notice and hearing in accordance with Section 11 of the Zoning Acts, the special permit granting authority finds that the specific site is an appropriate location for such use, that such use will not adversely affect the neighborhood and that adequate and appropriate facilities and protection will be provided, such as, without limited the generality of the foregoing, parking facilities and screening of unsightly uses from public view.
- B. Small-scale businesses and industries in residential districts. In addition to the requirements of Subsection A, special permits for small-scale businesses and industry in residential districts shall be granted only if the following requirements are also met:
  - (1) There shall be no more than four employees employed on the premises who are not also residents there.
  - (2) Traffic generated shall not exceed the volume normally expected in a residential neighborhood.
  - (3) Sufficient off-street parking will be provided, and this parking arrangement will require no backing out onto the public right-of-way.
  - (4) All outdoor parking, storage, loading and service areas will be screened from the view of the public road and from adjacent residences.
  - (5) There will be no odor, dust, fumes, glare or flashing light which is perceptible without instruments more than 200 feet from the boundaries of the lot in question, except for warning devices, construction or maintenance work or other special circumstances.
  - (6) The use will not cause continued erosion of the land or increased surface drainage from the lot.
  - (7) No pollution of the water or the air will result which is greater than that caused by a use which is allowed without a special permit.

- (8) Where possible, the site design will preserve trees, watercourses, hills and other natural features and enhance vistas, ocean views and historic locations and will minimize the intrusion into the character of existing development.
- (9) Small-scale business and small-scale industrial activities in the residential districts shall take place in residential structures or in structures similar in character to residential dwellings.

**175-56. Mobile home and recreation vehicle regulations.**

No mobile home, recreational vehicle or similar facility, however mounted, shall be occupied as a residence or parked or stored within the town except as follows:

- A. With the permission of the Building Inspector, mobile homes or similar facilities may be:
  - (1) Parked or stored for not more than fourteen (14) days.
  - (2) Used as an office or for storage in connection with a construction project.
- B. A nonconforming mobile home or similar facility existing at the time of the passage of this chapter may not be replaced for any reason despite any other provision of this chapter.
- C. Recreation vehicles may be:
  - (1) Parked or stored on the property of the owner's residence.
  - (2) By permit from the Building Inspector, used as a temporary residence for a period not to exceed fourteen (14) days, provided that all requirements of the Board of Health are met.

**175-57. Unregistered cars.**

No person shall have more than one (1) unregistered car or truck ungaraged on the premises owned by him or under his control, and under no circumstances shall any unregistered or unsightly car or truck be stored in the front yard of said premises. This section shall not apply to premises covered by licenses issued under MGL C. 140, Sec. 57 and 58.

**175-58. Nonconforming structures and use.**

- A. Any structure or lawful use of any structure or premises or part thereof existing at the time of the adoption of this chapter or an amendment thereto may be continued, notwithstanding the fact that it may not conform to these regulations.
- B. This Zoning Bylaw shall apply to the following:
  - (1) Any change or substantial extension of a nonconforming use.
  - (2) Reconstruction, extension or structural change of a nonconforming structure.
  - (3) Any alteration of a structure, begun after the first publication of notice of public hearing on this chapter to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.
  - (4) A building or construction permit, permit or special permit issued after the first publication of notice of public hearing of this chapter.
- C. A nonconforming 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 in type of activity than the original.

- D. Abandonment. A nonconforming use which has been abandoned for a period of two (2) years shall not be reestablished, and any future use shall conform with the chapter.
- E. Changes. Once changed to a conforming use, no structure shall be permitted to revert to a nonconforming use, except where this chapter makes provision for permit consideration.
- F. Exemption. Where alteration, reconstruction, extension or structural change to a single-family or two-family residential structure does not increase the nonconforming nature, neither public hearing nor special permit from the Board of Appeals is required for said alteration, reconstruction, extension or structural change, provided that it conforms to all statutory and Zoning Chapter requirements in effect when the work was done.
- G. The special permit granting authority, after a public hearing, notice of which shall have been given in accordance with Section 9 of the Zoning Act, may permit the use or nonconforming use of a nonconforming structure to be converted to another use or nonconforming use, provided that such converted use is not, in the opinion of the special permit granting authority, more objectionable to the neighborhood than the original use and conforms to the provisions of Sec. 175-55.
- H. The special permit granting authority may, after a public hearing, grant a special permit to allow a preexisting nonconforming use or structure to be expanded if, 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 preexisting nonconforming use or structure.
- I. The special permit granting authority shall have the authority to grant a special permit for the expansion, extension or alteration of a preexisting, nonconforming use where such expansion, extension or alteration will not comply with the applicable provisions of this chapter; provided, however, that the special permit granting authority finds after a public hearing that such expansion, extension or alteration will be in harmony with other uses in the neighborhood; that such expansion, extension or alteration will not adversely affect the provisions of municipal or other public services; and that such expansion, extension or alteration will not be more objectionable or substantially more detrimental to the character of the neighborhood than the original nonconforming use. **[Added 6-25-1991 STM, Art. 4, approved 10-8-1991]**
- J. The special permit granting authority shall have the authority to grant a special permit for the change, extension or alteration of a preexisting, nonconforming structure or for the construction of structures which are accessory to preexisting nonconforming structures where such change, extension, alteration or construction will not comply with the applicable provisions of this chapter; provided, however, that the special permit granting authority finds after a public hearing that other lots in the neighborhood have been previously developed by the construction of buildings or structures in such a manner as to have resulted in similar nonconformities and that the proposed expansion, extension, alteration or construction will not be more objectionable or substantially more detrimental to the character of the neighborhood than the original structure. **[Added 6-25-1991 STM, Art. 4, approved 10-8-1991]**

**175-59. Temporary structures and uses.**

Temporary structures and uses, if conforming to this chapter, shall be allowed subject to the same restrictions as permanent ones. Temporary structures not conforming to the requirements of this chapter may be allowed on a special permit granted by the Board of Appeals. The Board shall grant such a permit only upon its determination that nuisance, hazard, congestion and substantial harm to the neighborhood will be avoided and that the applicant has provided sufficient assurance that the proposed structure or use will be temporary. Such permit shall be granted for a period of six (6) months or less and may be renewed only once and only upon reapplication to the Board of Appeals.

**175-60. Accessory scientific uses.**

Accessory scientific uses shall be as permitted by MGL C. 40A, Sec. 9.

**175-61. Eating establishments.**

Eating establishments shall be subject to the following in all districts where allowed. No food shall be served on the premises outside of a building except by a special permit from the special permit granting authority, in accordance with a regulation appearing in Sec. 175-55A and 175-99 of this chapter.

**175-62. Conversions to time-sharing ownership dwelling unit.**

The conversion of a preexisting, nonconforming transient residential facility in the R-20, R-60, R-120 and RA-120 Districts into a time-sharing or time-interval ownership dwelling unit is not permitted.

**175-63. General development regulations.**

- A. No use shall be allowed in any district if injurious or offensive to the neighborhood by reason of odor, fumes, dust, smoke, vibration or noise.
- B. General design requirements. The following shall apply to all new nonresidential and nonagricultural development resulting in six (6) or more off-street parking spaces or more than one thousand (1,000) square feet of gross floor area. Site development shall provide for access to each structure for fire and service equipment and shall provide for stormwater drainage without erosion or prolonged ponding. In addition, building form, building location, egress points, grading and other elements of the development shall be such that, given the location and type and extent of land use, no reasonable alternative design would:
  - (1) Improve environmental consequences by reducing the volume of cut and fill, reducing the number of removed trees with four-inch trunk diameters and larger, reducing the area of wetland vegetation displaced, reducing the increase in peak stormwater flow from the site, reducing soil erosion or reducing threat of air or water pollution.
  - (2) Improve pedestrian or vehicular safety and convenience within the site and egressing from it.



- (3) Improve visual impacts by reducing the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned and by reducing glare from headlights or area lighting.

**175-64. Multi-unit dwellings. [Added 4-8-1986 ATM, Art. 18]**

Multi-unit dwellings shall be allowed in all residential zones by special permit from the Planning Board as long as the following conditions are met:

- A. Each multi-unit dwelling does not exceed four (4) units in a single building.
- B. The multi-unit dwelling is to be in a cluster development which has been approved under Article XIII of this chapter.

**175-64.1.Trash. [Added 4-11-1989 ATM, Art. 13, approved 6-22-1989]**

In all districts, the accumulation or storage of garbage, trash, discarded or abandoned objects, used or discarded building materials or other unsightly materials in such location or manner as to be visible from ground floor level of neighboring properties or from public or private ways is prohibited.

**175-64.2.Assisted housing. [Added 4-14-1992 ATM, Art. 13, approved 9-3-1992]**

- A. Purpose and intent. This section is established in order to achieve the following public purposes:
  - (1) To provide an alternative housing choice for seniors and disabled persons who may need assisted living and certain limited personal and supportive services in order to maintain themselves outside of an institutional setting.
  - (2) To provide structures designed and adapted to meet the needs of the senior or disabled population.
  - (3) To allow professional and supportive services routinely used by the senior or disabled population to be provided in a residential setting which allows those persons to live as fully and independently as possible.
  - (4) To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.
- B. Definition. "Assisted housing" is defined to mean housing in a single structure which meets a range of personal needs and provides a range of support services for senior or disabled residents. For the purposes of this section, "senior person" shall mean a person aged sixty (60) or older, and a "disabled person" shall mean a person with a physical or mental impairment that substantially limits one (1) or more of his or her major life activities. Assisted housing may sometimes be called "congregate houses," "rest homes," "retirement homes," "board and care," "assisted living homes" and other similar terms which are all residential in nature. The structure may contain, but is not limited to, the following areas:
  - (1) Common group areas for dining and food preparation; libraries, indoor and outdoor recreation facilities and gardening areas are encouraged.
  - (2) Bedrooms or suites for residents.
  - (3) Separate or shared bathroom facilities.

- (4) Living quarters for support staff.
- C. Permitting procedures and conditions. The Zoning Board of Appeals may authorize an assisted housing structure by special permit in any zoning district, notwithstanding provisions in any other Article of this chapter, provided that the following standards and criteria are met:
  - (1) Exterior design. A structure for assisted housing may be located in any district, provided that it be in keeping with the surrounding structures in form and architecture while retaining a single-family home appearance. The architectural style shall be in harmony with the prevailing character and scale of building in the neighboring area through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings.
  - (2) Size. A new structure build as assisted housing shall be no more than three thousand eight hundred (3,800) gross square feet. The conversion of an existing structure into assisted housing shall not increase the gross square footage of the existing structure by more than ten percent (10%).
  - (3) Interior design. The structure shall be residential in character, shall have central kitchen and dining facilities, shall have bedrooms or suites for residents and may have lounges, meeting rooms, recreation rooms, libraries, office spaces, other similar rooms for the use of the residents and staff and separate living quarters for support staff.
  - (4) Residency. Except for support staff, residency is limited to year-round seniors and/or disabled persons. Edgartown residents should be given residency preference. The residency limitations are to be assured by deed restrictions, running with the land. Failure to comply with these residency limitations may be penalized by injunction rendering the facility unrentable, unsalable or uninhabitable.
  - (5) Density. An increase in density (number of permitted bedrooms) may be granted if, in the opinion of the Zoning Board of Appeals and the Board of Health, such increase will not be detrimental to the surround properties. In no event may the Department of Environmental Protection Title V sewage regulations (State Sanitary Code) be exceeded.
  - (6) Parking. Parking facilities shall be provided in a ratio adequate for the proposed assisted housing, with no more than one (1) space for each bedroom. In all cases the parking will be off-road and screened.
  - (7) Lighting. No building shall be floodlit. Drives, walkways, entryways and parking areas shall not be illuminated by light fixtures higher than eight (8) feet, which shall be shielded to focus lighted areas only as desired, to provide safety as needed and to protect against glare as viewed from abutting properties.
  - (8) Site.
    - (a) The building shall be integrated into the existing terrain and surrounding landscape and should be designed to preserve abutting properties and community amenities while remaining visually compatible with natural or historic characteristics. The building must not adversely affect the natural environment to the detriment of community character and public health and safety. In particular, the structure shall

provide for adequate handicapped access as required by law. All traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal. Refuse disposal and collection shall also be a private responsibility.

(b) The building shall be sited to preserve the integrity of drinking water, groundwater supply, floodplains and any other sensitive environmental features. The building site shall, to the extent deemed feasible by the Zoning Board of Appeals, minimize tree, vegetation and soil removal and grade changes and screen objectionable features from neighboring properties and roadways. If necessary, buffer strips shall be densely planted in order to create a visually impermeable year-round screen which will reach at least six (6) feet in height within five (5) years of planting. Such buffer strips shall be maintained and replanted as necessary with replacement vegetation which will grow to a comparable height. Plantings may be located anywhere within the appropriate setback area; however, no paving or parking shall be located on the property line side of a buffer strip.

(9) General. Utilities such as electric, telephone and cable T.V. shall be underground. Concerns such as, but not limited to, curb, cuts, egress, visibility, emergency vehicle access, street scapes, lighting, walkways, trash, mailboxes, generator noise, exposed storage areas, service areas, utility buildings, other unsightly uses and will be considered and made part of the conditions of the special permit.

(10) Need. The Zoning Board of Appeals must be convinced that a need within the town exists so as to prevent vacant residential structures. Information gathered from the United States Census, private or public surveys, the Martha's Vineyard Commission, the Council on Aging, the Regional Housing Authority and other sources may be deemed acceptable to demonstrate a need. A special permit for assisted housing shall not be issued by the Zoning Board of Appeals unless the Board is satisfied of this need and further that the intent and provisions of this section and Sec. 175-100 of this chapter and of MGL C. 40A have been met.

D. Application procedures. The procedures for submission for approval of a special permit for assist housing shall be the same as prescribed in Article XVII, the Planned Development District of the Edgartown Zoning Chapter, with the exception that the Zoning Board of Appeals is the special permit granting agency.

**175-64.3. Island independent living. [Added 4-14-1992 ATM, Art. 14, approved 9-3-1992]**

A. Purpose. The purpose is to provide safe and healthy alternative housing for year-round residents throughout the town without altering the single-family appearance of historic Edgartown or compromising the independent aspect of the residents' lives. Through the Zoning Board of Appeals process, this goal can be met by reconfiguring existing housing or creating additional housing while maintaining harmony and balance with the surrounding neighborhood.

B. Definition. "Island independent living" is defined to mean attached or detached living units in which residents live year-round, either as tenants or owner-occupants. This may include

but is not limited to single persons, single parents, widows, widowers, seniors or exceptional persons.

- C. Permitting procedures and conditions. The Zoning Board of Appeals may authorize an island independent living facility by special permit in any zoning district, notwithstanding provisions in any other Article of this chapter, provided that the following standards and criteria are met:
- (1) Exterior design. An island independent living facility may be located in any district, provided that it be in keeping with the surrounding structures in form and architecture while retaining a single-family home appearance. The facility must conform to setbacks, height restrictions, minimum lot sizes and other restrictions which apply within the zoning district in which it lies. The architectural style shall be in harmony with the prevailing character and scale of buildings in the neighboring area through the use of appropriate building materials, screening, breaks in roofs, wall lines, landscaping and other architectural techniques which shall be site specific. Variation in detail, form and design shall be used to provide visual interest and avoid monotony from one district to another. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation and separation between buildings. Buildings shall be designed so as to have the appearance of single-family homes, and if multiple buildings are to be utilized they shall be clustered so as to minimize visual impact and maximize the preservation of open space.
  - (2) Size. New structures built as island independent living shall have not more than four (4) living units in a building, and each building shall have no more than three thousand eight hundred (3,800) gross square feet. Conversion of an existing structure shall not increase the gross square footage of the existing structure by more than ten percent (10%).
  - (3) Density. An increase in density (number of permitted bedrooms) may be granted if, in the opinion of the Zoning Board of Appeals and the Board of Health, such increase will not be detrimental to the surrounding properties. In no event may the Department of Environmental Protection Title V sewage regulations be exceeded.
  - (4) Residency. The building shall be occupied by year-round residents for a period of at least ten (10) years after which time the Zoning Board of Appeals may issue an occupancy waiver if, in the opinion of the Zoning Board of Appeals, the need no longer exists. Edgartown residents should be given residency preference. The residency requirement must be assured by deed restriction, running with the land. Failure to comply with the residency requirement herein may be penalized by injunction rendering such units unrentable, unsalable, uninhabitable or otherwise reducing the number of separate units or lowering the allowable number of occupants.
  - (5) Traffic. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through property layout, location and design of facilities and dwellings. The building(s) shall have access on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site, when added to the existing traffic stream.

- (6) Parking. Parking facilities shall be provided in a ratio adequate for the proposed dwelling units, with no more than one (1) space for each bedroom. In all cases the parking will be off-road and screened.
- (7) Lighting. Lighting shall not negatively impact the neighborhood. Drives, walkways, entryways and parking areas shall not be illuminated by light higher than eight (8) feet, which shall be shielded to focus lighted areas only as desired, to provide safety as needed and to protect against glare as viewed from abutting properties.
- (8) Site. The buildings shall be integrated into the existing terrain and surrounding landscape and should be designed to preserve abutting properties and community amenities while remaining visually compatible with natural and historic characteristics. The buildings must not adversely affect the natural environment to the detriment of community character and public health and safety. In particular, the building shall be sited to preserve the integrity of drinking water, groundwater supply, floodplains and any other sensitive environmental features. The building site shall minimize tree, vegetation and soil removal, minimize grade changes and screen objectionable features from neighboring properties and roadways.
- (9) General. Utilities such as electric, telephone and cable T.V. shall be underground. Concerns such as, but not limited to, curb cuts, egress, visibility, emergency vehicle access, street scapes, lighting, walkways, trash, mailboxes, generator noise, exposed storage areas, service areas, utility buildings, other unsightly uses and such will be considered and made part of the conditions of the special permit.
- (10) Need. The Zoning Board of Appeals must be convinced that a need within the town exists so as to prevent vacant buildings. Information gathered from the United States Census, private or public surveys, Martha's Vineyard Commission, the Council on Aging, the Regional Housing Authority and other sources may be deemed acceptable to demonstrate a need. A special permit for an island independent living facility shall not be issued by the Zoning Board of Appeals unless that Board is satisfied of this need and further that the intent and provisions of this section and Sec. 175-100 of this chapter and of MGL C. 40A have been met.
- (11) Family apartment exception. One (1) island independent living unit may be built as a family apartment in an existing single-family dwelling or accessory structure in any zoning district, notwithstanding provisions in any other part of this chapter, without a special permit if:
  - (a) The only other dwelling unit on the property is a single-family dwelling; there is no guesthouse.
  - (b) The single-family dwelling has been in existence for at least five (5) years.
  - (c) The new family apartment does not add to the footprint of the existing structure in which it will be built.
  - (d) The family apartment is less than six hundred (600) gross square feet.
  - (e) The single-family dwelling is occupied by a year-round resident who owns the property.
  - (f) The family apartment is not rented or used as a rental unit.

- (g) The residency and rental restrictions noted above in Subsection C(11)(e) and (f) are assured by a deed restriction, running with the land. Failure to comply with these residency and rental restrictions may be penalized by injunction rendering the property unrentable, unsalable or uninhabitable.
- D. Application procedures. The procedure for submission for approval of a special permit for an island independent living facility shall be the same as prescribed in Article XVII, the Planned Development District of the Edgartown Zoning Chapter, with the exception that the Zoning Board of Appeals shall be the special permit granting authority.

**175-64.4. Accessory apartments. [Added 4-13-1993 ATM, approved 7-29-1993]**

- A. Definition. An “accessory apartment” is a separate housekeeping unit complete with its own sleeping, cooking and sanitary facilities, which is substantially contained within or added to the single-family dwelling or attached accessory structures.
- B. Purpose and intent.
  - (1) The owner of an existing or proposed single-family dwelling may install one (1) accessory apartment unit to his or her home. However, an accessory apartment may not be added to a home which already has a guesthouse in addition to a principal residence, and a guesthouse may not be added to a property which already has a principal residence and an accessory apartment.
  - (2) The purposes of this section are to:
    - (a) Provide rental housing for Edgartown’s small families and seniors within the architectural content of the island’s single-family home character.
    - (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 older or disabled homeowners who wish to remain in their homes.
    - (d) Provide homeowners with additional income to ensure that they can retain ownership of their homes.
    - (e) Protect residential stability, property values and the single-family character of the neighborhoods.
    - (f) Allow owners of existing illegal apartments to license and register those apartments and provide a means for the Town to ensure that those apartments meet all building and health codes.
    - (g) To make it possible for the Town of Edgartown to supervise and monitor such additions for code compliance and safety.
- C. Permitting procedures and conditions. The Zoning Board of Appeals may authorize an accessory apartment by special permit in any zoning district, provided that the following standards and criteria are met:
  - (1) Interior design. The accessory apartment shall be a complete, separate housekeeping unit that functions as a separate unit from the main residence with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant. The accessory apartment may consist of no more than one living room, one bathroom, one kitchen

and one bedroom. Rooms which might be converted at some future time to a bedroom, such as studies, studios, libraries and the like, shall be counted as bedrooms for the purposes of this section.

- (2) Ownership. The accessory apartment and the principal dwelling unit shall be in common (i.e., the same) legal or equitable ownership, and the owner must occupy either the principal or accessory dwelling unit. At no time shall both portions of the property be rented.
  - (3) Exterior design. The accessory apartment shall be designed so that the appearance of the building remains that of a single-family residence as much as feasibly possible. To ascertain this, architectural plans may be required. The accessory unit may be constructed in or added to an existing or new single-family residence. Any new entrance to the residence shall be on the side or rear of the building so long as it meets the requirements of existing codes.
  - (4) Unit size. The accessory apartment shall clearly be a subordinate part of the single-family dwelling in which it is located. The floor area shall not be less than 300 square feet nor more than 900 square feet nor occupy more than 33% of the gross floor area of the structure (including any additions for the new apartment, if any), whichever is lesser. Gross floor area will include habitable space, hallways, decks and closets.
  - (5) Parking. At least one additional off-street parking space shall be available on the premises for use by the residents of the accessory apartment and shall be located so as to minimize the visual impact from the street or abutting properties. This requirement may be waived for units in the Downtown Historic District.
  - (6) Historic District. Any proposed accessory apartment in the Historic District must first receive a certificate of appropriateness from the Historic District Committee before applying to the Zoning Board of Appeals for consideration for a special permit.
  - (7) Density. The special permit may be granted by the Zoning Board of Appeals if, in the opinion of the Board of Health, state septic systems regulations will not be violated and the increase will not have a material detrimental effect on surround properties, and if, in the opinion of the Planning Board, it would be compatible with the Master Plan.  
**[Amended 4-14-1998 ATM, Art. 28, approved 9-25-1998]**
  - (8) Other considerations. In addition to the above, the Zoning Board of Appeals shall grant a special permit for an accessory apartment only after consideration of the special permit criteria required in other sections of this chapter and of the criteria required in other sections of this chapter and of the following factors:
    - (a) Lot configuration and topography.
    - (b) Existing private deed restrictions on the subject property.
  - (9) Preexisting. Accessory apartments in existence prior to the adoption of this section may have application made for a special permit without prejudice by April 1, 1998, and may be given special permits, provided that they meet all of the above requirements.
- D. Application procedure. The procedures for submission and approval of a special permit for an accessory apartment shall be the same as prescribed in Article XVII, Planned

Development District, of this chapter with the exception that the Zoning Board of Appeals is the special permit granting authority.

- E. Inspections. The Zoning Inspector shall maintain a running, up-to-date log of approved accessory apartments. Prior to occupancy of the accessory apartment, an occupancy permit shall be obtained from the Building Inspector. No such permit shall be issued until the Building Inspector has made a final inspection of the proposed accessory apartment.

**175-64.5. Substandard lots as affordable home sites. [Added 4-10-2001 ATM, Art. 13, approved 9-25-2001]**

- A. Purpose. The purpose of this section is to allow home sites to be buildable for people who have lived in Edgartown for a substantial time, who intend to live year-round in Edgartown, but who, because of high land prices, would otherwise be financially unable to establish their homes in Edgartown.
- B. Definition. A “substandard lot” is a lot which has been established and recorded in Dukes County Registry of Deeds prior to April 10, 2001, which is smaller than the required minimum size for a building lot in the zoning district in which it is located and which is determined to be unbuildable in accordance with the provisions of the Massachusetts General Laws and the Edgartown Zoning Chapter (that is, not grandfathered by other laws).
- C. Special permit procedures. The Zoning Board of Appeals may approve a special permit for a substandard lot to be buildable in any zoning district, notwithstanding provisions in any other article of this chapter, provided that the following standards and criteria are met:
  - (1) The applicant meets the residency and income requirements of the Edgartown Resident Homesite Committee, and is so certified by the Resident Homesite Committee, before submitting an application to the Zoning Board of Appeals.
  - (2) The lot has a minimum of 10,000 square feet.
  - (3) The minimum requirements of the Edgartown Board of Health for water and septage to the lot are met, and so certified by the Edgartown Board of Health.
  - (4) The requirements of Sec. 175-55A of this chapter are met.
- D. Special permit conditions. Such special permit will be subject to the condition that the applicant will covenant with the Town that resale of the lot will be subject to terms and limitations in accordance with the regulations of the Edgartown Resident Homesite Committee in place at that time. The Zoning Board of Appeals may impose additional conditions to assure that the purposes of this section are met.

ARTICLE XIII

**Cluster Developments**

**175-65. Authorization to file permit application.**

For the purpose of encouraging the preservation of open space and promoting the more efficient use of land in harmony with its natural features and with the general interest of the Zoning Bylaw and to protect and promote the health, safety, convenience and general welfare of the inhabitants of the Town, an owner or owners of a tract of land situated within any residential or residential/agricultural district or a duly authorized agent thereof may make application to the



Planning Board for a special permit excepting such land from the requirements of the intensity regulations delineated in this chapter and allowing cluster development in the form of multi- or single-family units.

**175-66. Criteria for granting of permit.**

After notice and joint public hearing with the Board of Health, the Planning Board may grant such a special permit, provided that:

- A. The area of the tract of land to be developed is not less than five acres.
- B. In no instance shall the density exceed that specified in Sec. 175-67 of this chapter.
- C. Tracts not having access to publicly available water and/or sewerage must provide on-lot systems that will ensure adequate protection to the water table's purity.
- D. The usual setback requirements shall be met, except that no proposed dwelling shall be within 50 feet of the cluster development's boundary.
- E. All such open land shall either be conveyed to the Town and accepted by it for park or open space or be conveyed to a nonprofit 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, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the Town, a restriction, enforceable by the Town, shall be recorded, provided that such land be kept in an open state and not built for residential use or developed for accessory uses such as parking or roadway. Land developed for recreational use, including but not limited to any structures, pools or playgrounds, shall not be considered to be open land for the purposes of dedication to the Town.
- F. Where such 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.

**175-67. Number of dwelling units.**

- A. The number of dwelling units allowed in a cluster development shall equal one and one-tenth (1.1) times the applicable land area divided by the minimum lot area requirement for a single-family dwelling in that district.
- B. Applicable land area shall be determined by a registered land surveyor and shall equal the total area of the tract of land proposed for development minus land subject to either inland or coastal wetland regulations (MGL C. 131, Sec. 40), minus land otherwise prohibited from development by local or state bylaw, regulation or statute, minus land designated on the plan for uses not primarily servicing residents of the development and minus land previously prohibited from development under a conservation restriction.
- C. If the tract proposed for development lies in more than one (1) zoning district, the number of units allowed shall be calculated as above for each of the above to give an overall allowable total.

- D. If, in the opinion of the Planning Board, such increased density of any cluster shall not be detrimental or objectionable to the neighborhood in which it is located, each dwelling unit in a multifamily structure may be considered as fifty percent (50%) of a dwelling unit in calculating the allowable number of units for units reserved for year-round occupancy by families or individuals of income below current Island average. Such occupancy is to be assured through appropriate covenants and through ownership or management involvement of a nonprofit or limited-dividend organization.

**175-68. Imposition of further restrictions.**

The Planning Board may, in appropriate cases, impose further restrictions upon the tract, or parts thereof, as a condition of granting the special permit.

**175-69. Application preparation requirements.**

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 architect, a registered landscape architect and a registered civil engineer or registered surveyor.

**175-70. Submission of additional information.**

In addition, the developer shall submit any other information which might be required by the Board to assist in the review process, including detailed building elevations, when deemed necessary.

**175-71. Approval guidelines.**

- A. Approval of a cluster development shall be granted only upon the Planning Board's determination that the plan is superior to a conventional one in preserving open space for conservation or recreation or agriculture, 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.
- B. As guidelines, the Planning Board shall consider if the proposed cluster development:
  - (1) Preserves natural landscape in large contiguous areas enhancing the likelihood of continuation of existing ecosystems.
  - (2) Minimizes driveway openings through streets or near street intersections.
  - (3) Minimizes extensive topographic change necessitating vegetation and tree removal.
  - (4) Preserves scenic views from public ways.
  - (5) Provides contiguity with preserved open space for large proportion of the lots having reduced lot area.
  - (6) Varies in lot sizes and building arrangements.
  - (7) Uses common open space to protect valuable natural environments such as stream valleys, outstanding vegetation or scenic spots and avoids development on geographically unsuitable land.
  - (8) Enhances the character of the neighborhood in which the tract lies.
  - (9) Is consistent with expect future development or to any Master Plan in existence.

**175-72. Conformance with other requirements.**

A special permit for a cluster development shall not be issued by the Planning Board unless the Board is satisfied that the intent and provisions of this chapter and of Chapter 40A of the General Laws have been met.

ARTICLE XIV

**Beach Area and Wetlands Regulations**

**175-73. Purpose; definitions.**

The purpose of this Article is to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities in all zoning districts of the town for the benefit and welfare of the present and future inhabitants of the town. For this purpose, the following terms shall have the meanings herein ascribed to them:

BEACH AREA – That area extending from the mean low-water line to the inland edge of land covered by sand dunes or by beach grass.

MARSH – Any essentially flat, frequently wet and occasionally flooded area adjoining open water along the shores of a pond or the banks of a stream and lying between such open water and the adjacent natural or artificial upland.

POND – Any body of open water, other than a stream or the ocean, habitually more than five thousand (5,000) square feet in area.

STREAM – Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp or similar body of water to another, to another stream or to the ocean.

SWAMP – Any depressed area of poor drainage in which the water table is generally at or above the ground level, not caused or affected by saltwater or action of the oceanic tide.

TIDAL MARSH – Any marsh area in which action of the oceanic tide causes a change in the water level from time to time, exclusive of hurricane tides or tidal waves, and any marsh area developed and maintained by incursion of oceanic saltwater or by action of the oceanic tide. Such area shall include all of the originally contiguous area geologically indefinable as “tidal marsh,” irrespective of the presence of artificial dikes, causeway or the like which may have divided the original marsh area into two (2) or more sections.

TIDAL RIVER – Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of hurricane tides or tidal waves, irrespective of any actual incursion or admixing of oceanic saltwater.

**175-74. Operations requiring special permit.**

Any person wishing to perform or cause to be performed any of the following acts or operations in any zoning district of the town shall first obtain a special permit from the Planning Board:

- A. Obstructing, filling, dredging, excavating or changing the course of any stream or tidal river.
- B. Filling or excavating within any part of any marsh or tidal marsh or in or along the shore of any pond so as to alter the shoreline.

**175-75. Conformance with statutory requirements.**

The Planning Board may hold joint hearings with the Conservation Commission, but both the Board and Commission shall each comply with its statutory conditions as to notice, hearing and vote and the provisions of MGL Chapter 40A and MGL C. 131, Sec. 40, respectively.

**175-76. Beach area regulations.**

Permits for building on or use of land within a beach area as defined in Sec. 175-73 shall be issued only in accordance with this section.

- A. Permitted uses. Use regulations elsewhere in this chapter notwithstanding, structures and premises in beach areas may be constructed or used only for the following purposes, unless granted a special permit under Subsection B:
  - (1) Fishing and shellfishing, including the raising and cultivation of fish and shellfish.
  - (2) Forestry, grazing and farming, nurseries, truck gardening and harvesting of crops, including but not limited to such crops as cranberries, marsh hay, seaweed, berries and shrub fruits and trees and work incidental thereto.
  - (3) Conservation of soil, water plants and wildlife.
  - (4) Outdoor activities, including hiking, swimming, boating, nature study, fishing, trapping and hunting.
  - (5) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.
  - (6) Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pastures or forestry areas.
  - (7) Public or publicly authorized beach stabilization projects.
  - (8) Addition of ten percent (10%) or less to the floor areas of any building as existing at the time of adoption of this Article or for repairs or alterations totaling fifty percent (50%) or more of the actual cash value of the structure or, if damaged, before damage occurred in each case as determined by the Building Inspector.
- B. Conditionally permitted uses. The Planning Board may grant a special permit for the following structures and uses, subject to such special conditions and safeguards as said Board deems necessary to fulfill the purpose of Sec. 175-73, to assure continued dune stabilization, to maintain the ecological integrity of beach areas and to reduce the likelihood of hazards for health or safety:
  - (1) Nonresidential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing, harvesting and storage of crops raised on the premises and bathhouses.

- (2) Dams, changes in watercourses or other drainage works, only as part of an overall drainage plan constructed or authorized by a public agency except as stated in Subsection A(5) above.
  - (3) The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provisions of Chapters 782 and 784, Acts of 1972, and Chapter 91 of the General Laws.
  - (4) Fabricated walks or trails, docks and landings for private use.
  - (5) Municipal uses.
- C. Prohibited activities. Uses other than those allowed or allowed on special permit in Subsections A and B above are prohibited. Unless necessarily incidental to a use allowed under Subsection A, the following activities are prohibited:
- (1) Filling, placing or dumping of any soil, loam, peat, sand, gravel, rock or other mineral substance, refuse, trash, rubbish or debris, natural or man-made.
  - (2) Excavation, dredging or removal of loam, peat, sand, gravel or other mineral substance.
  - (3) Destruction of natural vegetation of any primary dune or reduction of the crest height.
  - (4) Any other act or use of land in a manner which would destroy natural vegetation, substantially altering existing patterns of water flow and means of dune stabilization or any other alteration of the natural and beneficial character of dunes or other beach land.
  - (5) Maintenance of storage areas or tanks for chemicals or petroleum products or other potential sources of substantial pollution.

ARTICLE XV

**Overlay Districts: Districts of Critical Planning Concern**

**175-77. Coastal District.**

- A. Area.
  - (1) The Coastal District includes the land, streams and wetlands of Edgartown which lie below a ten-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 or all land within one hundred (100) feet of the streams and wetlands draining into the coastal great ponds.
  - (2) Exemption. The land bounded on the south by Atwood Circle extended to Edgartown Harbor, on the north and east by the walkway to the lighthouse and North Water Street to Starbuck Neck Road and Gaines Way to where it intersects the ten-foot contour line.
- B. Establishment of zones in the Coastal District.
  - (1) 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 or within one hundred (100) feet of any stream or wetland draining into a coastal great pond. A "bluff" shall mean land

- adjacent to a beach or coastal wetlands which shows the effects of wave erosion or other down-slope erosion causing it to be steeper than the otherwise natural slope of land.
- (2) Inland Zone: consisting of all land within the Coastal District except the Shore Zone.
- C. Permitted uses shall be as follows:
- (1) Shore Zone: only those uses permitted in Sec. 175-76A and which are consistent with the fragile nature of the area, such as outdoor recreation, agriculture, fishing and conservation purposes.
- (2) Inland Zone: all uses permitted in the Shore Zone as well as detached single-family dwellings and nonhabitable minor accessory structures normally used for personal, family and household purposes, subject to the regulations and restrictions of Subsection E and the underlying zoning district.
- D. Conditionally permitted uses. The Planning Board may grant a special permit in accordance with Sec. 175-100C.
- (1) Shore Zone: as in Sec. 175-76B of the Zoning Bylaw, except that municipal uses must be associated with beach stabilization or drainage projects.
- (2) Inland Zone: uses allowed by permit or special permit by the Zoning Bylaw subject to the requirements of Subsection E.
- E. Regulations and restrictions of the respective underlying zoning district shall apply, subject to the following:
- (1) Height of structures.
- (a) Maximum height of structures as measured vertically from the mean natural grade level shall be as follows: twenty-six (26) feet for a pitched roof and eighteen (18) feet for a flat or shed roof [which is a roof with a pitch of one (1) in four (4) or less].
- (b) The Planning Board may grant a special permit to modify the height restrictions of the Coastal District up to the maximum allowed in the underlying zoning district, in specific instances, if it finds such modification consistent with the character of the neighborhood.
- (2) Except by special permit, no road shall exceed 10 feet in width.
- (3) Except by special permit, all utility installations shall be placed underground.
- (4) Any groundwater well shall require a permit from the Board of Health before installation and shall be located at least 200 feet from any sanitary disposal facility and 200 feet from any saltwater body.
- (5) Any sanitary disposal facility shall be located a minimum of 200 feet from any saltwater body.
- (6) There shall be a minimum separation of 200 feet between sanitary disposal facilities.
- (7) No portion of a sanitary disposal facility shall be located less than five feet above minimum groundwater elevation.
- (8) No sanitary disposal facility shall be located less than 600 feet from a public water supply well nor less than 200 feet from any domestic water supply well.
- (9) Where compliance with these regulations is not possible due to the dimensions of a lot existing in separate ownership from adjoining lots before December 22, 1976, the requirements of Subsection E(4) through (8) may be modified by the Board of Health.

**175-78. Island Road District. [Amended 4-11-2000 ATM, Art. 17]**

A. Major roads.

- (1) Major roads consist of the area lying within 200 feet of the right-of-way of the following roads:
    - (a) The West Tisbury–Edgartown Road from the Chase Road intersection west to the Town boundary.
    - (b) The Beach Road from the intersection of the Edgartown–Vineyard Haven Road north and northwesterly to the Town boundary.
    - (c) Chappaquiddick Road to and including Wasque Road, School Road and Dyke Road, from the ferry landing to the boundary of the Trustees of Reservations' property.
    - (d) Katama Road from the intersection with Herring Creek Road south to and including Atlantic Drive.
    - (e) Herring Creek Road.
    - (f) The Edgartown–Vineyard Haven Road from the end of the B-II Zoning District (Pennywise Path) westerly the Town boundary.
  - (2) Permitted uses shall be any residential (including home occupational) business, recreational, agricultural or open space use as permitted in the respective zoning district subject to the regulations and restrictions set forth in Subsection C.
  - (3) Regulations and restrictions.
    - (a) For all new accesses, applications must be made to the Planning Board.
    - (b) Any additional vehicular access to the major road must be at least 1,000 feet, measured on the same side of the road from any other vehicular access, except that if this requirement would prevent at least one access to a major road from each lot held in separate ownership from the lots contiguous thereto as of December 22, 1976, 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 except where arrangements have been made to share existing accesses. No land shall hereafter be divided if such lot or lots would not be entitled to a way to provide vehicular access to a public way as provided herein. The Planning Board may grant a special permit to allow accesses at a closer interval than provided herein.
    - (c) Height of structures. Except by special permit, the maximum height of structures as measured vertically from the mean natural grade level shall be as follows: 26 feet for a pitched roof and 18 feet for a flat or shed roof (which is a roof with a pitch of one in four or less).
- B. Special Ways.
- (1) Purpose. The special way designation protects old cart paths and walkways that are cultural and historic links to the community's past, recreational resources for enjoyment of outdoors, and a conservation resource to accommodate and promote nonmotorized means of transportation.
  - (2) Designated special ways.

- (a) Special ways are typically evidenced by cart path depressions in the terrain measuring from a few inches to more than a foot. The special way is measured from the tops of the embankments on either side of the way. Absent such physical evidence or other documentation, its width shall be assumed to be eight feet.
- (b) The designated special ways are:
  - [1] Dr. Fisher Road (a.k.a. Willay's Plain Path), beginning at the Edgartown–West Tisbury Road at the western edge of Edgartown Assessor Map 22 Lot 2.1 and running northwest to the Manuel Correllus State Forest at the northern edge of Edgartown Assessors Map 22 Lot 54. (Lot numbers refer to Edgartown Assessors maps dated January 1, 1999.)
- (3) Establishment of Special Way Zone. The area lying within 20 feet of the center line of a designated special way shall comprise the Special Way Zone and be subject to regulations herein.
- (4) Development regulations.
  - (a) A special way shall not be blocked or obstructed.
  - (b) There shall be no alteration of the width or surface of a special way.
  - (c) No special way shall be paved.
  - (d) 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.
  - (e) No fences, walls, structures, or obstructions shall be erected, placed or constructed within the Special Way Zone.
  - (f) The special ways are for nonmotorized transportation and recreation only, except for where vehicular rights-of-way preexist the designation of the special way.
- (5) Permitted uses. Any residential, recreational, agricultural or open space use permitted in the underlying zoning districts in which the Special Way zone lies is permitted, subject to the regulations herein and provided that the use does not involve motor vehicle use of the special way.
- (6) Uses requiring a special permit.
  - (a) Any uses permitted in the underlying zoning districts in which the Special Way Zone lies which involve motor vehicle use of the special way and involve property which has vehicular rights over the special way which preexist the designation of the special way. Where property has a right to vehicular access via a special way, efforts should be made to develop alternate access to preclude vehicular use of the special way in as far as possible.
  - (b) Uses allowed by special permit in the underlying zoning districts in which the Special Way Zone lies.
  - (c) Crossing of a special way by a proposed dirt, paved, or otherwise improved roadway. Consideration of such crossings shall include deliberation of appropriate means to draw attention to the crossing for people's safety, including the surface composition of the crossing.



- (d) Development, uses, or structures for which the imposition of these regulations would otherwise deprive a landowner of all reasonable use, or may be demonstrated by a landowner to be unreasonable.
- (7) Criteria for special permits. In considering a request for a special permit, the Planning Board shall consider whether the request is consistent with the purpose of the special way designation [Subsection B(1)], whether the request is consistent with the intent of this chapter, and whether the request will create conflicts with present or future uses of the special way.
- (8) Relocation of a special way. Relocation of a special way may be approved by the Planning Board upon holding a public hearing and finding that the relocation would result in preserving the continuity of the way, create new trail connections, provide increased public trail access, improve safety, or otherwise enhance the way for trail users. However, it is beyond the jurisdiction of the Planning Board to either grant or extinguish public rights-of-way by such action.

**175-79. Special Places District.**

- A. Area. Sampson's Hill, Chappaquiddick. The land lying more than 90 feet above mean sea level.
- B. Regulations and restrictions.
  - (1) The erection of structures within the district shall not result in breaking the skyline as observed from a public road or water body.
  - (2) Departure from the terms of the district may be allowed by a special permit from the Planning Board, provided that, in the opinion of the Planning Board, there is no other way or place on a lot (existing in separate ownership from adjoining lots before December 22, 1976) to build a structure without breaking the skyline and such structure complies with the intent and purposes of this chapter and the zoning rules and regulations of the Town.

**175-79.1 Cape Pogue District. [Added 9-12-1989 STM, Art. 17, approved 1-18-1990]**

- A. Goals: to prevent damage to structures, land and water as a result of erosion, to preserve and enhance the character of views, to maintain the quality of well water, to prevent pollution, to enhance and protect recreation uses, to minimize adverse impacts of recreational use, to protect the quality of adjacent fin and shell fisheries, to maintain and enhance the fishing economy and to promote and protect wildlife habitats.
- B. Area of the District: All of the land and waters, bordered by mean high-water line, beginning at Wasque Point (southernmost point of Edgartown Assessors' Map 48 Lot 45); thence northerly along said land bordered by the Atlantic Ocean to and including Cape Pogue Point, continuing southwesterly around said point to the tip of land known as "Cape Pogue Gut," bordered by the Atlantic Ocean; thence easterly across the waters of Cape Pogue Gut to mean high-water line at the southernmost corner of Map 18 Lot 1 on Cape Pogue Gut; thence continuing along the mean high-water line northerly to the point of land known as "John Oliver Point"; thence continuing along the mean high-water line in a southern and eastern direction along the western and southern shores of Cape Pogue Bay to the point of land forming the northern entrance to the waters known as the "Lagoon"; thence continuing along

the mean high-water line in a southerly direction along the western shore of the channel (a.k.a. the "Lagoon"), connecting Cape Pogue Bay and Poucha Pond; thence running along the mean high-water line on the westernmost shore of Poucha Pond and continuing along said high-water line, including Mumcheag' Creek and Daggetts Pond, to the most northern bound of Map 48 Lot 1 (Edgartown Tax Assessors' Map); thence in a southwesterly direction along the eastern bound of Washque Avenue (as shown on Edgartown Tax Assessors' Maps 47, 48 and 50) to the mean high-water line to Map 51 Lot 49 (Edgartown Tax Assessors' Map); thence in a westerly direction along said high-water line to South Beach Road (a.k.a. "Katama Road"), at this point running easterly along said high-water line to the point of origin. **[Amended 9-26-1994 STM, Art. 12, approved 3-2-1995]**

- C. Permitted uses. Use regulations elsewhere in this chapter notwithstanding, only the following uses area permitted. Any structure associated with these uses and any other development or uses would require a special permit under Subsection D.
- (1) Fishing and shellfishing, including aquaculture.
  - (2) Forestry, grazing and farming, including but not limited to such crops as cranberries, marsh hay, seaweed and beach grass.
  - (3) Conservation of soil, water, plants and wildlife.
  - (4) Outdoor recreation activities, including swimming, boating and nature study.
  - (5) Hunting, trapping and duckblinds.
  - (6) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.
  - (7) Public or publicly authorized beach stabilization projects.
  - (8) Repair and alterations to an existing structure, which work does not expand the existing footprint of the structure.
- D. Uses requiring a special permit.
- (1) Except as permitted under Subsection C, a special permit shall be required for any "development" as that word is defined in Chapter 831, Section 6 of the Acts and Resolves of 1977; for example, any construction, alteration, addition and removal of structures, including but not limited to dwellings, septic systems, stairwells, decks, boardwalks, impervious surface, trails and roads, outbuildings, boathouses, piers, recreational amenities and fences and walls. The Planning Board shall be the special permit granting authority.
  - (2) An applicant seeking a special permit shall submit an application to the Planning Board accompanied by a proposed schedule for all phases of development activities and a site plan or plans showing pre- and postconstruction conditions, including topography, vegetation, location of wildlife breeding habitat, wetland areas and floodplains, plans and elevations of all structures, location of utilities, access roads and paths, septic systems and water supply facilities and any other information which will allow the Planning Board to determine the effects of the proposed development on:
    - (a) Coastal dunes, barrier beaches, coastal banks, rocky intertidal shores, salt marshes, land under salt ponds, land containing shellfish, wetlands and floodplains.
    - (b) Wildlife breeding habitat or seasons.

- (c) Rare or endangered plants or animals and their habitats.
  - (d) Vegetative cover serving to stabilize land forms.
  - (e) Views within and looking at the site.
  - (f) Surface and ground water resources, in particular any adverse effects, e.g., contamination, siltation, eutrophication and saltwater intrusion.
- (3) Plans shall be on a scale of one (1) inch equals forty (40) feet, unless the Planning Board authorizes a different scale, and shall be prepared by a registered land surveyor or registered professional engineer.
- (4) Upon receipt of the special permit application, the Planning Board shall forward a copy of the application to the Martha's Vineyard Commission staff, Harbor Master, Conservation Commission, Marine Advisory Committee, Shellfish Committee, Board of Health, Selectmen and the Cape Pogue DCPC Advisory Committee for written comments. Failure of the above-named entities to submit written recommendations to the Planning Board within twenty-one (21) days of the initial filing of the special permit application shall be deemed a favorable recommendation by the entity. The Planning Board shall review the written recommendations of the above-named entities as it considers the proposed development.
- (5) The Planning Board shall grant a special permit only after public notice and hearing in accordance with Section 11 of the Zoning Act, MGL C. 40A, Sec. 11, and only if it finds that the proposed development:
- (a) Will not materially impair the physical integrity of coastal dunes, barrier beaches, coastal banks, rocky intertidal shores, salt marshes, land under salt ponds, land containing shellfish, wetlands and floodplains.
  - (b) Will not have a significant adverse effect on wildlife breeding habitat and construction can be timed so as to minimize disturbance during the wildlife breeding season.
  - (c) Will not have a significant adverse effect on rare or endangered species of plants or animals or on their habitat, including the associated vegetation, topography, moisture, soils and geology of those natural habitats.
  - (d) Will minimize the disturbance to existing vegetation except as to the footprint of the proposed structure.
  - (e) Has been designed to minimize obstruction of views or public waters, scenic and historic structures and natural and open landscapes from within and without the site.
  - (f) Will not unreasonably contribute to surface and ground water pollution, in particular, contamination, siltation, eutrophication and saltwater intrusion.
- (6) If the Planning Board determines that the proposed development does not satisfy the above criteria and that the goals of these guidelines will be undermined, it may, in furtherance of the goals of these guidelines, require modifications to the plans and attach conditions to the special permit relating to size, height, appearance, location of structures and/or the type, location, number and size of vegetation to be altered or replaced. Except where the context otherwise requires, terms that are defined in the Department of Environmental Quality Engineering's Wetland Protection Regulations 310 CMR 10.00 will be so defined here.

- E. Prohibited uses.
- (1) The use of herbicides, pesticides, fungicides and chemical fertilizers outside of dwellings is prohibited. No further division or subdivision of property which would result in a building lot or buildable lot is permitted. However, division of properties for the purpose of realignment of boundaries between abutting properties may be permitted if such division creates no buildable lots.
  - (2) More than one (1) dwelling per lot is prohibited.
  - (3) Nonmunicipal piers. **[Added 9-26-1994 STM, Art. 12, approved 3-2-1995]**
- F. Cape Pogue DCPC Advisory Committee. A Cape Pogue DCPC Advisory Committee shall be established to foster cooperation in management of public and private lands in the District, to advise the Planning Board on applications for special permits and to propose wildlife management and recreations guidelines.
- (1) Membership shall include one (1) representative from each of the following organizations, appointed by that organization:
    - (a) Edgartown Conservation Commission.
    - (b) Edgartown Board of Health.
    - (c) Massachusetts Department of Environmental Management.
    - (d) Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement.
    - (e) The Trustees of Reservations Membership.
    - (f) The Trustees of Reservations Staff.
    - (g) County of Dukes County.
    - (h) Martha's Vineyard Commission.
    - (i) Cape Pogue property owner (appointed by the Chappaquiddick Island Association).
    - (j) Conservation/wildlife specialist (appointed jointly by Sheriff's Meadow Foundation, Vineyard Conservation Society and Vineyard Open Land Foundation).
  - (2) Responsibility of the Committee shall be to:
    - (a) Maintain records of property management plans.
    - (b) Encourage implementation of management recommendations in the District Guidelines.
    - (c) Develop and propose amended District Guidelines.
    - (d) Review each application for a special permit for consistency with management plans and the District Guidelines and advise the Planning Board.

**175-79.2 Katama Airfield and Conservation Area District. [Added 9-12-1989 STM, Art. 7, approved 1-8-1990<sup>16</sup>]**

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<sup>16</sup> Editor's Note: Said Article 7 was originally included in the warrant for the 8-22-1989 STM, which was postponed due to the lack of a quorum.

- A. Purpose:
- (1) To protect and maintain the remaining Katama Great Plains, including the rare wildlife and natural community, the Katama Airfield and the open vistas which together sustain this unique natural area.
  - (2) To prevent the creation and maintenance of airfield hazards, thereby protecting the safety and welfare of users of Katama Airfield and the occupants of land in its vicinity and protecting the public resources of the Katama Airfield.
  - (3) To preserve and promote the wildlife habitat by maintaining and encouraging open sandplains, grasslands and natural vegetation and uses on land adjoining the grasslands, thereby protecting the existing natural community, including the rare and endangered species of plants and animals, the character of the landscape and the public resources of the conservation lands.
- B. Area of the District: All land beginning at a line drawn from the mean low-water line of the Atlantic Ocean drawn 1,000 feet parallel from the westerly right-of-way of Herring Creek Road, following the westerly and northerly bound of Map 53 Lot 14, and westerly bound of Map 53 Lot 15.2, crossing Herring Creek following said property bound; thence easterly along said property bound for 730 feet, turning northwesterly for 1,050 feet, thence northeasterly for 330 feet, then continuing northwesterly following the northeast and northern bounds of Map 44 Lots 52, 32, 33, 36, 35, 37 and 38; thence northeasterly along property bound of Map 44 Lot 28, crossing Slough Cove Road continuing in same direction along the most southerly bound of 40-foot way on Map 44 and 45 to Proprietors Road, crossing Proprietors Road in northerly direction to southerly property bound of Map 36 Lot 157.17, continuing along said bound easterly then northerly to Vincent Way, continuing along the eastern bound of Vincent Way to bound between Map 36 Lots 157.13 and 157.14, thence turning easterly and following said lot bound in a straight easterly line for 850 feet to the southwest corner of Map 36 Lot 151.2; continuing easterly and southerly corner of Map 36 Lot 151.2; continuing easterly and southerly along the southern bounds of Map 36 Lots 151.2, 147.3, 147.4 and 147.5; thence southwesterly for 100 feet; thence southerly for 200 feet, crossing Crocker Drive, westerly for 40 feet to northwest bound of Map 45 Lot 35; then southeasterly for 413 feet, thence continuing southeasterly in a line drawn 1,000 feet parallel from the easterly right-of-way of Mattakesset Way to mean low-water line of the Atlantic Ocean and thence in a westerly direction along the mean low-water line of the Atlantic Ocean to the point of origin. The above map and lot numbers are referenced in the Town of Edgartown Tax Assessor Book.
- C. Permitted uses. The following uses and structures associated with these uses are permitted, with the exception of structures associated with outdoor recreational activities which require a special permit. Any of these uses or associated structures which would require a permit under other town or state regulations, such as but not limited to a building permit, a septic permit, an order of conditions, a lease, an approval by the Martha's Vineyard Commission as a

development of regional impact or a permit from the Board of Selectmen, must be reviewed by the Site Review Committee before such permit may be issued.

- (1) Fishing and shellfishing, including aquaculture.
- (2) Agriculture, including forestry, grazing and farming.
- (3) Conservation of soil, water, plants and wildlife.
- (4) Outdoor recreational activities such as hiking, swimming, boating or nature study which do not substantially alter natural vegetation or landforms.
- (5) Hunting.
- (6) Public or publicly authorized beach stabilization projects.
- (7) Residential dwellings and buildings accessory to them.

D. Uses requiring a special permit:

- (1) Municipal uses and structures.
- (2) Structures associated with outdoor recreational activities.
- (3) Any division or subdivision of land.

E. Prohibited uses:

- (1) The use of pesticides, herbicides, fungicides and chemical fertilizers is prohibited except for agricultural use on land greater than five (5) acres.
- (2) Aerial spraying of agricultural pesticides, herbicides, fungicides or chemical fertilizers is prohibited.
- (3) Unless necessarily incidental to a permitted use, or allowed by special permit, the following activities are prohibited:
  - (a) Excavation, dredging or removal of loam, peat, sand, gravel or other mineral substance.
  - (b) Filling, placing or dumping any soil, loam, peat, sand, gravel, rock or other mineral substance or any refuse, trash, rubbish or debris, natural or man-made.
  - (c) Destruction of natural vegetation.
  - (d) Alteration of the natural landforms.
  - (e) Planting or cultivation of ornamental or landscaping plants not native to or commonly found in the District.
  - (f) Storage areas or tanks for chemicals or petroleum products.

F. Procedures for permitted uses.

- (1) Every application for a permit for a use or structure in Subsection C, such as, but not limited to, a building permit, septic permit, order of conditions, lease or permit issued by the Board of Selectmen, shall be subject to review by the Site Review Committee to assure careful review of consistency with the purposes of this section and other town requirements.
- (2) The Town Board, Commission or Inspector (hereafter "Permit Board") which receives the application shall forward it to the Planning Board, which will then coordinate its review by the Site Review Committee.
- (3) The Planning Board shall make a report of the Site Review Committee in writing to the Permit Board. This report may include conditions to approval of the application which protect against adverse effects on the wildlife habitat or the airfield approach zones.

- (4) No building or use permit shall be issued by any Town Board, Commission or Inspector (“Permit Board”) without approval by the Planning Board as coordinator of the Site Review Committee. Failure of the Planning Board to make a report to the Permit Board within thirty (30) days of the date the application was filed with the Permit Board shall be deemed approval of the application by the Site Review Committee.
- G. Procedures for special permits.
- (1) The Planning Board shall be the special permit granting authority.
  - (2) All special permit applications are subject to review by the Site Review Committee. The Planning Board shall forward copies of the application and supporting material to the members of the Site Review Committee and may call meeting of the Committee. The Planning Board may make no final action on the application until receiving written reports from the Committee members or until forty-five (45) days has elapsed since the date the application was sent to it. The Planning Board shall explain in writing to the Committee member(s) any departure in its decision on the application from the recommendation(s) of that member.
  - (3) A special permit issued for a division or subdivision of land shall include conditions by the Planning Board requiring the layout and siting of lots, the design and location of the area to be developed within the proposed land and the establishment of permitted buildable envelopes and land management practices to maintain the land outside the building envelopes.
  - (4) A special permit issued for a structure shall include conditions by the Planning Board concerning the siting of the structure and any associated disturbance of the natural area.
- H. Criteria for review. The Site Review Committee and the Planning Board shall consider the following performance criteria for all applications:
- (1) To maximize the protection of endangered plant and animal species through the siting of uses and structures, a maximum distance from known or suspected habitats, even when such species are located off-site.
  - (2) To minimize disturbance to such species by limiting construction in critical areas.
  - (3) To maximize the protection of wildlife habitat, vegetation and landforms through the use of limitations on, but not limited to, building sites, grading, fencing, landscaping, driveway and parking facilities and other physical disruptions to the natural community and systems.
  - (4) To minimize the effects on the utility of Katama Airfield runways and approach zones.
- I. Site Review Committee. The Site Review Committee shall be established to foster cooperation in management of public and private lands, to make recommendations on applications for permits and special permits and to propose additional wildlife management, land use and recreation guidelines as appropriate.
- (1) Membership shall include one (1) representative from each of the following organizations, appointed by that organization:
    - (a) Board of Selectmen.
    - (b) Planning Board.
    - (c) Conservation Commission.

- (d) Edgartown Airfield Commission.
- (e) Board of Health.
- (f) Building Inspector.
- (2) The Committee may consult with the Nature Conservancy, the Massachusetts Natural Heritage Program, the Martha's Vineyard Airport Manager and other state and local organizations.
- (3) The Committee shall be coordinated by the Planning Board.
- J. Airfield approach zone. It is hereby declared that the existence of any airfield hazard endangers the lives and property of the users of the Katama Airfield and the occupants of the land in its vicinity and effects a reduction of the area available for the landing, taking off and maneuvering of aircraft, thus tending to impair the utility of the airfield and the public investment therein. Accordingly, in the interest of public health, safety and general welfare, these regulations are established to prevent the creation or maintenance of airfield hazards:
  - (1) Regulations in the approach zone.
    - (a) Runway areas. No structure, antennas, platform, pole, chimney or man-made object of any sort and no tree or vegetation of any sort higher than two (2) feet will be permitted within sixty-five (65) feet of the center line of the runways for the entire runway length.
    - (b) Clear zones.
      - [1] No structure, antennas, platform, pole, chimney or man-made object of any sort and no tree or vegetation which would constitute an airport hazard shall be permitted in the clear zone.
      - [2] Allowable height of structures built beneath designated clear zones: one-twentieth (1/20) of the shortest horizontal distance from the structure or tree (or any part thereof) to the runway threshold within the approach zone in which the structure or tree is located.
  - (2) Nonconforming uses. The limitations in this section shall not require the removal, lowering or other change or alteration of any structure or tree not conforming to these regulations as of their effective date or interfere with their continuing use. Nothing herein shall be construed to permit any such nonconforming structure or tree to be substantially altered or repaired, rebuilt, allowed to grow or replanted so as to become a great hazard to air navigation than it was on the effective date of this section.
  - (3) Definitions. As used in this Subsection J, unless the context otherwise requires, the following terms shall have the meaning indicated:

AIRFIELD – The Edgartown Katama Airfield.

AIRFIELD APPORACH ZONE – Any airspace above the area defined as clear zone and shown on a map entitled “Map of Approach Protection Zones, Katama Airport, Prepared for the Edgartown Planning Board dated March 24, 1982, and revised by the Katama Airfield Commission in 1988” which is on file in the Town Clerk’s office and the Planning Board



office. The location of the airfield approach zones may be amended when appropriate. Subsequent amendments will be recorded on a map and so filed.

AIRFIELD HAZARD – Any structure or tree which extends into any airfield approach zone.

CLEAR ZONE – The area perpendicular to the runway, including the airspace above the runway, 65 feet each side of the center line and a distance from the runway threshold to the outermost limit of the clear zone along the center line of 1,000 feet. The distance across the threshold end of the clear zone is 250 feet. The distance across the outermost end of the clear zone is 450 feet. The slope of the floor of the clear zone from the runway threshold to the outermost end of the clear zone is twenty-to-one vertical rise.

STRUCTURE – Any object or structure installed by man, including any object regulated or licensed under any other provision of law.

THRESHOLD – The beginning of that portion of the runway usable for landing.

TREE – Any tree or other object of natural growth.

**175-79.3 Edgartown Ponds Area District. [Added 4-10-1990 ATM, Art. 11, approved 6-29-1990]**

- A. Purpose: to protect and enhance the character and resources of the Edgartown south shore ponds environment; and to assure that uses of and development of the land and waters are controlled and appropriate to the area in order to:
  - (1) Protect wildlife habitats.
  - (2) Protect the quality of water which supports shellfish propagation.
  - (3) Maintain scenic vistas.
- B. Area of the District:
  - (1) All land, waters, streams and wetlands in the Town of Edgartown south of the Edgartown–West Tisbury Road, north of the Atlantic Ocean, east of the Edgartown–West Tisbury Town boundary and west of the Herring Creek Road, Slough Cove Road and Meetinghouse Road which: **[Amended 11-2-1999 STM, Art. 19, approved 3-9-2000]**
    - (a) Lie within 700 feet of mean high water of a coastal water body exceeding 10 acres in size (hereinafter “the ponds”), or the ocean; or
    - (b) Lie within 300 feet of streams and wetlands draining into the ponds (measured from the thread of the streams or the edge of the wetlands vegetation); or
    - (c) All water bodies which exceed 10 acres in size.
  - (2) Exemption: lots on the subdivision plan endorsed by the Edgartown Planning Board January 13, 1990, of Lot 3.3, Edgartown Assessors’ Map 43.
- C. Establishment of zones.
  - (1) Zone 1: all land and waters within the District from mean low water of the ocean or the ponds to 100 feet inland of the inland edge of any of the ponds or ocean or any wetland, coastal bank or inland bank, stream, dune or beach adjacent to or draining into the ponds

or ocean, whichever is furthest inland. **[Amended 11-2-1999 STM, Art. 19, approved 3-9-2000]**

(2) Zone 2: all land within the District within 200 feet of the inland edge of Zone 1.

(3) Zone 3: all land within the District outside the inland edge of Zone 2.

D. Definitions. As used in this section, the following terms shall have the meanings indicated:

**COASTAL BANK** – The seaward face or side of any elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action or other coastal wetland.

**INLAND BANK** – The portion of the land surface which normally abuts and confines a water body, occurring between a water body and a wetland and adjacent floodplain, or, in the absence of these, occurring between a water body and an upland; a bank may be partially or totally vegetated or it may be comprised of exposed soil, gravel or stone; the upper boundary of a bank is the first observable break in the slope or the mean annual flood level, whichever is lower.

**WETLAND** – Any freshwater or coastal wet meadow, marsh, swamp, bog or vernal pool; an area of low-lying topography where groundwater, flowing water, standing surface water or ice provides a significant part of the supporting substrate for a plant community composed of 50% or more of species adapted for life in saturated soil conditions (species so adapted shall include only indicative wetlands plants, including but not limited to those listed as obligate wetland, facultative wetland or facultative in the most recently published edition of the National List of Plant Species That Occur in Wetlands–Massachusetts List, prepared by the United States Fish and Wildlife Service for the National Wetlands Inventory); any disturbed area where the substrate is composed of hydric soils but where wetlands indicative plants may be absent, including but not limited to filled wetlands, mowed lawns or hayfields; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.

**WILDLIFE** – All nondomesticated mammals, birds, reptiles, amphibians, fishes or invertebrates which use an area for part of their life cycle; special consideration shall be given to those wildlife species listed as rare, endangered or of special concern by the Massachusetts Natural Heritage Program or its successor.

**WILDLIFE HABITAT** – The area which wildlife use for nesting, breeding or feeding during any part of their life cycle and including the landforms and plants in the area which support the wildlife. Special consideration shall be given to those plants listed as rare, endangered or of special concern by the Massachusetts Natural Heritage Program or its successor.

E. Consistency with other regulations.

(1) This section is an overlay of the existing requirements and regulations of the underlying zoning district and is not intended to create a new zoning district.

- (2) If the provisions of this section conflict with the requirements or regulations of the underlying zoning district or of Article XIII, Article XIV, Article XV, Article XX or Article XXI of this chapter, then the stricter requirements or regulations shall prevail.
- F. Permitted uses and structures.
- (1) Zone 1. The following uses and structures associated with these uses are permitted with the exception of structures associated with outdoor recreational activities which require a special permit:
- (a) Fishing and shellfishing, including aquaculture.
  - (b) Agriculture, including forestry, grazing, farming and harvesting, including but not limited to such crops as cranberries, marsh hay, seaweed and beach grass.
  - (c) Conservation of soil, water, plants and wildlife.
  - (d) Outdoor recreational activities such as hiking, boating or nature study which do not substantially alter natural vegetation or landforms and which do not require a structure.
  - (e) Hunting and trapping.
  - (f) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.
  - (g) Public or publicly authorized beach stabilization projects.
  - (h) Addition of 10% or less to the floor area of any building as existing at the time of adoption of this section.
  - (i) Repair and alterations to an existing structure, which work does not expand the existing footprint of the structure.
  - (j) Access roads, paths and clearing for views.
  - (k) Fences for agricultural use.
- (2) Zone 2.
- (a) Uses and structures permitted in Zone 1.
  - (b) One single-family detached dwelling, subject to the regulations and restrictions of the underlying zoning district and of Sec. 175-77E(1) through (9) (Coastal District) of this chapter.
  - (c) Nonhabitable minor accessory structures normally used for personal family or household purposes subject to the regulations and restrictions of Sec. 175-77E(1) through (9) and of the underlying zoning district.
- (3) Zone 3.
- (a) Uses and structures permitted in Zone 1 and in Zone 2.
  - (b) One guesthouse subject to the regulations and restrictions of the underlying zoning district and of Sec. 175-77E(1) through (9) (Coastal District) of this chapter.
  - (c) If inland of the inland edge of the Coastal District as defined in Sec. 175-77A, then use and structures permitted by Article VIII (RA-120 District).
- G. Uses and structures requiring a special permit. The Planning Board acting as special permit granting authority may grant a special permit for the following uses and structures, subject to such conditions and safeguards the Board deems necessary to fulfill the purposes of this section:

- (1) Zone 1.
  - (a) Fabricated walks or trails and landings for private use.<sup>17</sup>
  - (b) Temporary seasonal floating docks.
  - (c) Dams, changes in watercourses or other drainage works only as part of an overall drainage plan constructed or authorized by a public agency except as stated in Subsection F(1)(f) above.
  - (d) The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provisions of Chapters 782 and 784, Acts of 1972, and MGL C. 91.
  - (e) Municipal uses and associated structures.
  - (f) Public utilities and associated structures.
  - (g) Additions of more than 10% to the floor area of any building existing at the time of adoption of this section located within Zone 1 but outside of the Shore Zone of the Coastal District as defined in Sec. 175-77B(1).
- (2) Zone 2.
  - (a) Uses and structures allowed by special permit in Zone 1, above.
  - (b) Uses and structures which are permitted or allowed by special permit in the underlying zoning district, subject to the requirements of Sec. 175-77E (Coastal District).
  - (c) A guesthouse subject to the requirements of the underlying zoning district and of Sec. 175-77E (Coastal District).
- (3) Zone 3.
  - (a) If within the Coastal District as defined in Sec. 175-77A, then uses or structures conditionally permitted by Sec. 175-77D.
  - (b) If inland of the inland edge of the Coastal District as defined in sec. 175-77A, then uses and structures conditionally permitted by Article VIII (RA-120 District).
- H. Prohibited uses. Except as may be necessary or incidental to a permitted use or to a use allowed by a special permit, the following activities are prohibited:
  - (1) Zone 1 and Zone 2.
    - (a) Excavation, dredging or removal of loam, peat, sand, gravel or other mineral substance except where needed for improvement of fishing and shellfishing resources or wildlife habitat improvement.
    - (b) Dumping of any natural or man-made material.
    - (c) Storage of toxic or hazardous materials which are described in the Edgartown Board of Health regulations dated July 17, 1985.
    - (d) Fencing which is a barrier to wildlife movement except fences for agricultural uses.

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<sup>17</sup> Editor's Note: A former entry for boathouses, which immediately preceded this subsection, was repealed 9-26-1994 STM, Art. 13, approved 3-2-1995.

- (e) Operation of personal watercraft. **[Added 11-2-1999 STM, Art. 20, approved 3-9-2000]**
- (f) Operation of greater than 10 horsepower engines. This section does not apply to commercial fishing or to other motors in use on these waters for duly registered craft before October 28, 1999. **[Added 11-2-1999 STM, Art. 20, approved 3-9-2000]**
- (2) Zone 3.
  - (a) Storage of toxic or hazardous materials which are described in the Edgartown Board of Health regulations dated July 17, 1985.
  - (b) Fencing which is a barrier to wildlife movement except fences for agricultural uses.

ARTICLE XVI  
**Sign Regulations**

**175-80. Purpose.**

The purpose of this article is to regulate the uses of signs defined below in order to preserve the character and heritage of Edgartown.

**175-81. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ACCESSORY SIGNS** – Any sign that advertises or indicates the person occupying the premises on which the sign is erected or maintained or business transacted thereon or advertises the property itself or any part thereof as for sale or rent and which contains no other matter.

**PERSON** – Includes an individual, corporation, society, association, partnership, trust or other entity, public or private.

**SIGN** – Any privately owned permanent or temporary device, placard, painting, drawing, poster, letter, word, banner, pennant, insignia, trade flag, merchandise, or representation used as or which is in the nature of an advertisement, announcement or direction which is on a public way or on private property within public view of a public or private way, public park or reservation.

**SIGN, AREA OF:**

- A. The “area of a sign” shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any cutouts or extensions, but shall not include any supporting structure bracing.
- B. The “area of a sign” consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- C. The “area of a sign” consisting of a three-dimensional object shall be considered to be the area of the object.

- D. In computing the area of signs, both sides of V-shaped signs, but only one (1) side of back-to-back signs, shall be counted.

STANDING SIGN – Any accessory sign that it not attached to a building.

TEMPORARY SIGN – Any sign, including its supporting structure, to be maintained for a continuous period of not more than thirty (30) days.

**175-82. Administration and enforcement.**

- A. Enforcement. The Building Inspector is hereby authorized to enforce this Article. He is authorized to order the repair and removal of any sign and its supporting structure which, in his judgment, is dangerous or in disrepair or which is erected or maintained contrary to this Article.
- B. Administration.
  - (1) An Advisory Council appointed by the Board of Selectmen shall review all applications for signs in the Town of Edgartown and advise the Building Inspector in writing with regard to the appropriateness of the uses of such signs and their conformity to this Article. Its role will be advisory.
  - (2) The Advisory Council shall consist of five (5) year-round and full-time residents, including at least two (2) from the retail sector and one (1) from the general business community. The Board of Selectmen shall appoint the members of the Advisory Council from qualified applicants after notice has been published for two (2) consecutive weeks. Members shall serve for three-year terms staggered to provide continuity. The initial appointment shall be of one (1) member serving a one-year term, two (2) members serving two-year terms and two (2) members serving three-year terms. Unexpired terms shall be filled by the above selection process.
  - (3) The Council shall meet weekly during the period of March 1 through June 30 and monthly thereafter or as necessary to act on applications in a timely manner. All completed sign applications must be reviewed and submitted by the Council to the Building Inspector within ten (10) days. A quorum shall consist of three (3) members of the Advisory Council.
- C. Permits. Except as provided in Sec. 175-53E, 175-84 and 175-85B(3), no sign, temporary or permanent, shall be erected, altered or enlarged until a permit has been issued by the Building Inspector following review by the Advisory Council. Such permit shall be issued only if the sign complies or will comply with all applicable provisions of this Article. The provisions of this section shall not apply to signs permitted in a residential area or temporary signs to be placed in a window.

**175-83. General Requirements.**

- A. Character. All signs shall be professional in quality and shall not detract from the overall character of Edgartown. They should be constructed to provide pertinent information but should not become visually dominant elements in their intended surroundings. Accordingly,

materials, designs and colors should be chosen to reflect and be harmonious with surrounding vistas and architecture. Day-glow and luminescent colors shall not be permitted.

- B. Movement. No sign shall contain any moving, flashing or animated lights or visible moving or movable parts.
- C. Illumination. Signs shall be illuminated only by a white, steady, external stationary light of reasonable intensity, shielded and directed solely at the sign. Internally illuminated accessory or nonaccessory signs shall not be permitted, except that internally illuminated ice and beverage dispensing machines may be permitted if shielded from public view in a manner appropriate to the particular location (see Subsection F) and only after a sign permit has been granted.
- D. Window signs. The size of signs painted or placed on the inside of the glass of a window shall be that which is determined by the Building Inspector as appropriate for the business, but in no event shall it exceed fifty percent (50%). The character of such signs shall meet the requirements of Subsection A above.
- E. Temporary signs. Temporary signs which comply with this Article shall be permitted. Temporary signs which do not comply with this Article may be authorized by the Building Inspector for public or charitable purposes.
- F. Outdoor merchandise. In determining whether outdoor display of merchandise or representation shall be permitted, consideration shall be given to whether the item(s) is more appropriately displayed outdoors rather than indoors and to the relative amount and location of the outdoor space to be so utilized. For purposes of this Article, clothing, dry goods and foods generally are not considered appropriate for outdoor display. Ice and beverage dispensing machines may be allowed outdoors if shielded from public view in a manner appropriate to the particular location and only after a sign permit has been granted. Other food-dispensing machines or other vending machines (e.g., snacks, sandwiches, candy, cigarettes, etc.) are not permitted outdoors. Businesses wishing to display allowable outdoor merchandise must submit merchandising display plans as part of their applications.
- G. All proprietors displaying outdoor ice and beverage vending machines which are in place on this date shall be granted, upon application within thirty (30) days, sign permits valid for the period ending April 1, 1984. Such permits shall be issued with the understanding that all such permitted machines displayed shall conform to Subsection F thereafter.
- H. "No trespassing" signs and other similar signs which prohibit activities do not require a permit but must comply with Subsections A, B and C. Such signs may be posted on property at such regular intervals as meet the requirements of posting property. **[Added 6-28-1988 STM, Art. 30, approved 9-23-1988]**
- I. Political signs. A political sign is one that is designed or intended to influence the action of voters for the election or defeat of candidate(s) or issue(s) at a national, state, county or local election. Such signs must be removed within ten (10) days following such election. Political signs are permitted whether or not they comply with other sections of this chapter. **[Added 4-11-1989 ATM, Art. 12, approved 6-22-1989]**

**175-84. Nonaccessory signs**

Nonaccessory signs shall be allowed only on special permit from the Building Inspector, subject to the following:

- A. Such signs shall be allowed only in B-I or B-II Districts.
- B. Permits shall be limited to one (1) year, subject to annual review.
- C. Only signs giving directions to establishments not otherwise easily located or conveying information similarly useful to the general public shall be allowed.
- D. Sign area and location shall comply with requirements of Sec. 175-85 for accessory signs.
- E. Further limitations on size, locations and illumination may be imposed as conditions of approval by the Building Inspector if determined by him to be necessary to protect the character of the existing neighborhood.

**175-85. Accessory signs.**

- A. Residence districts. In residence districts, there shall be no more than one (1) sign per lot, and that sign may only be used to identify the premises or to refer to products or services available there. All signs shall be no more than four (4) square feet in size. **[Amended 6-28-1988 STM, Art. 30, approved 9-23-1988]**
- B. Business districts. In an area zoned as a business, commercial or industrial district, signs permitted under Sec. 175-84A and the following are permitted.
  - (1) One (1) sign for each exterior wall of an establishment if such wall faces a public way or contains a public entrance. Any such sign must be either flat against the wall or perpendicular to it. If attached flat against the wall, the sign shall not extend beyond the building lines, and the area of the sign may not exceed the lesser of ten percent (10%) of the wall area of such establishment or twelve (12) square feet. If perpendicular to the building, it may not project more than four (4) feet from the building nor exceed five (5) square feet in area. Roof signs and V-shaped signs are not permitted.
  - (2) One (1) directory of the establishments occupying a building at each public entrance to the building. Such directory shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.
  - (3) Standing signs shall be allowed only one special permit from the Building Inspector subject to the following:
    - (a) Sign area shall not exceed twelve (12) feet, and sign height shall not exceed ten (10) feet in height above the ground. No part of such sign shall protrude over the property line.
    - (b) Permission shall be granted only where such signs will not deviate from established neighborhood patterns or create hazard because of obstructed vision.
- C. Advertising the fact that the premises are for sale or for rent, or other conditions thereto, may be done only by the owner of the property and may include only the owner's personal name, personal telephone number or personal address but not include a business affiliation. **[Added 6-28-1988 STM, Art. 30, approved 9-23-1988]**



**175-86. Nonconforming accessory signs.**

Accessory signs legally erected before the adoption of this Article which do not conform to the provisions of this Article may continue to be maintained without a permit; provided, however, that no such sign shall be permitted if, after the adoption of this Article, it is enlarged, reworded (other than in the case of theater or cinema, church or library signs), redesigned or altered in any substantial way, except to conform to the requirements of this Article, and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent (35%) of the replacement cost of the sign at the time of restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this Article. Any exemption provided in this section shall terminate with respect to any sign which:

- A. Shall have been abandoned.
- B. Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises.
- C. Shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the Building Inspector.

**175-86.1. Requirements for signs in historic districts. [Added 4-11-1989 ATM, Art. 12, approved 6-22-1989]**

- A. Historic districts in the Town of Edgartown are defined as shown on the map entitled "Edgartown Historic District, Edgartown, MA," effective April 14, 1987, on file with the Edgartown Town Clerk, the Edgartown Historic District Commission and the Dukes County Registry of Deeds.
- B. In case of conflict or contradiction with requirements for signs to be erected in other districts, the requirements set forth in this section shall apply.
  - (1) Illumination. While illumination of signs in an historic district is permitted, the level of illumination shall be kept at a minimum. The intent of such illumination should be not to draw attention to the sign from a great distance, but instead to permit the sign to be read from a reasonable distance at night.
  - (2) Character. The general appearance of a sign erected in an historic district should not clash with its surroundings. The use of attention-getting devices such as, but not limited to, the following, will be discouraged:
    - (a) Superfluous, busy or otherwise unnecessary borders and/or shapes.
    - (b) Nonconventional typefaces.
    - (c) Bright colors, either in lettering, shapes, background or borders.
  - (3) Wall sign. The top of a wall sign for a street-level establishment may not protrude above the top of a second-story windowsill.
  - (4) Number of signs. The minimum effective number of signs will be permitted at any one (1) business location.
  - (5) Architectural features. It is strongly recommended that no sign obscure an architectural feature or ornament.

- (6) Guidelines for review of application. In addition to technical review of the data presented on the sign permit application, the Sign Advisory Council and the Building Inspector shall consider the following:
- (a) Although specific designs or signs to be erected in an historic district are not prohibited by this section, certain sign types may be deemed incompatible in some instances. For example, a handcrafted sign for a franchised or otherwise affiliated business may be more appropriate than a mass-produced, home-office-approved type of sign.
  - (b) Complicated or cluttered design will be discouraged. This is not meant to exclude the use of a depiction of the product(s) or service(s) available, but rather to discourage the depiction of multiple products or services available.
  - (c) In the case of support structures for signs, the structure should complement and represent the same period of time as that represented by the sign it supports and the immediate surroundings. For example, a black, wrought-iron bracket would be deemed more appropriate to support a projecting sign on a colonial structure than would, say, one made of tubular stainless steel.

## ARTICLE XVII

### **Planned Development District (PDD)**

#### **175-87. Purpose.**

The purpose of the Planned Development District (PDD) is to encourage a mix of land uses and activities and building types that complement each other; to provide the necessary development to implement these uses in a comprehensive manner instead of piecemeal; to save open land; and to promote more efficient use of land that would otherwise be lost or wasted while protecting natural resources such as wetlands, water bodies, groundwater and native vegetation; to promote diverse, energy-efficient housing for various income levels and in harmony with the history and character of the town, all in conformity with the provisions of MGL C. 40A.

#### **175-88. Special permit granting authority.**

The Planning Board shall be the special permit granting authority in the PDD.

#### **175-89. Permitted uses.**

Uses permitted as of right in the underlying district shall be permitted uses in the PDD.

#### **175-90. Uses permitted by special permit.**

The Planning Board may issue a special permit for certain residential and recreational uses within the PDD as follows:

##### **A. Subdistrict R Residential.**

- (1) Detached single-family units and/or townhouse units shall be permitted in Subdistrict R. No townhouse building shall contain more than ten (10) units. The number of single-family units shall not exceed twenty-five percent (25%) of the units normally allowed in the

underlying district. Townhouse units shall not exceed seventy-five percent (75%) of the number of single-family units normally allowed in the underlying districts. The term "townhouse" as used herein shall mean any building consisting of single-family units, attached by common fire-separation walls, with each unit providing complete independent living facilities.

- (2) No building in Subdistrict R shall exceed in height that allowed in the underlying district.
- (3) All residential structures and accessory uses within the subdistrict shall be set back from the boundaries of the PDD by a buffer strip of at least one hundred (100) feet in width, to be kept in a natural or landscaped condition.
- (4) Parking facilities shall be provided, in a ratio of two (2) spaces per dwelling unit, in Subdistrict R.
- (5) Buildings in the subdistrict shall be separated from each other by at least fifty (50) feet.
- (6) The Planning Board shall give preference to a layout which minimizes paved areas.
- (7) All residential units shall be connected, at the developer's expense, to the public sewerage system.
- (8) As a condition of granting a special permit, land on Subdistrict R not devoted to the dwelling units or to permitted accessory uses shall be set aside as common open land for the use of the PDD residents. The common land shall be conveyed to a corporation or trust comprising a homeowners' association whose membership includes the owners of all units contained on the parcel. The developer shall include in the deed to owners of individual units beneficial rights in the common land and shall grant a conservation restriction to the town over such land pursuant to MGL C. 134, Sec. 31 to 33, to ensure that it is primarily kept in an open or natural state. The restriction shall further provide for maintenance of the common land in a manner which will protect and enhance the groundwater, including limitation on use of fertilizer, pesticides and herbicides, limitation on use of de-icing chemicals, proper maintenance of drainage and sewer pipes and the like. The restriction shall be enforceable by the town through its Conservation Commission in any proceeding authorized by the General Laws. The developer/owner shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as an association is capable of assuming the responsibility. In order to ensure that the association will properly maintain the land deeded to it, the developer shall cause to be recorded at the Registry of Deeds a declaration of covenants and restrictions which shall, at a minimum, provide for the following:
  - (a) Mandatory membership in an established homeowners' association as requirement of any form of ownership of any unit in the subdistrict.
  - (b) Provisions for maintenance assessments of all units in order to ensure that the common land and facilities are properly maintained. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the association or the owner of any unit. Until the association is organized, the owner shall perform the duties of the association. To the extent permitted by the conservation restriction, the common land may be used for recreational purposes, including but not limited to

walking and bicycle paths, gardens, swimming pools and tennis courts. Utility lines shall be buried.

**175-91. Procedures.**

- A. Preapplication conference. Prior to the submission of an application for a special permit to develop within the PDD, the applicant, at his/her option, may confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.
- B. Submission of preliminary PDD plan.
  - (1) The applicant may file five (5) copies of the preliminary PDD plan with the Planning Board. The Planning Board, within forty-five (45) days from receipt of the preliminary plans, shall review and determine whether the proposed project is consistent with the most suitable development of the town. The Planning Board may suggest modifications and changes of the preliminary plan in anticipation of the filing of the definitive plan. The contents of the preliminary plan shall be established by regulations of the Planning Board.
  - (2) Should the Planning Board incur additional costs in reviewing the preliminary plan, such costs shall be borne by the applicant unless otherwise ordered by the Board.
- C. Submission of definitive PDD plan.
  - (1) The applicant shall submit to the Board an application for a special permit accompanied by the original of the definitive plan plus ten (10) copies thereof, together with a fee to be determined by the Board, to include the cost of advertisement and notification of all parties of interest, as defined in MGL C. 40A, Sec. 11.
    - (a) One (1) copy each shall be forwarded by the Planning Board to the Board of Health, Fire Department, Police Department, Conservation Commission, Board of Assessors, Board of Selectmen, Sewer Commission,<sup>18</sup> Highway Superintendent and any other bodies as the Planning Board may determine.
    - (b) The agencies receiving copies of the definite plan shall submit to the Planning Board written recommendations on the proposed project within thirty-five (35) days of filing. Failure to comment shall be deemed lack of objection.
    - (c) The Planning Board, within sixty-five (65) days of submission of the plan shall hold a public hearing, notice of which shall be published in a local newspaper once in each of the two (2) successive weeks, with the first publication to be not less than fourteen (14) days before the date of the hearing and shall be mailed to all parties of interest, as defined in MGL C. 40A, Sec. 11, and to any other property owners deemed by the Board to be affected thereby. Notice shall be given by certified mail by the Board. The

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<sup>18</sup> Editor's Note: Article 51, 4-15-1988 ATM, provided as follows: "Moved that the town vote to change the name of the Edgartown Sewer Commission to the Edgartown Wastewater Commission."

list of persons to be notified shall be prepared by the applicant and certified by the Board of Assessors. Insofar as possible, this hearing shall be held jointly with any other hearing required to be held for this project.

- (d) The Planning Board shall, within ninety (90) days following the public hearing, certify in writing that the application is approved as submitted, approved subject to modification or denied. If the application is modified or denied, the Planning Board shall include written reasons for the action. If the Planning Board fails to issue findings within ninety (90) days, the plan shall be deemed approved. However, no building permit shall be issued until the plan, signed by the appropriate number of members of the Planning Board, shall be recorded in the Registry of Deeds and until any appeal period has passed.
  - (e) Approval of a special permit hereunder shall require a four-fifths (4/5) vote of the Planning Board.
  - (f) If the project is denied, the developer shall not submit substantially the same proposal for two (2) years, except as provided under MGL C. 40A, Sec. 16.
  - (g) Special permits granted under this section shall lapse in two (2) years, excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not been begun. The Planning Board may grant an extension if the delay has been caused on account of the need to seek other permits.
  - (h) No construction or reconstruction except as shown on the recorded plan shall occur without a further submission of plans to the Planning Board, and a notation to this effect shall appear upon the recorded plan and upon the deeds to any property within the PDD.
- (2) Contents of the definitive plan shall be established by regulations of the Planning Board. The application for a special permit shall be accompanied by the original copy of the definitive plan and other data required to be submitted by regulations of the Planning Board. Should the Planning Board incur additional costs in reviewing the definitive plan, such costs shall be borne by the applicant unless otherwise ordered by the Board.

**175-92. Performance guaranty.**

Before approving the definitive plan, the Planning Board shall require that construction of ways and installation of utilities be secured by a type and amount of security satisfactory to the Board, including recordable covenants.

**175-93. Criteria for review.**

No special permit shall be granted and no definitive plan shall be approved unless the Planning Board finds and determines that the proposed project meets all the following conditions:

- A. The project is consistent with the purposes set out in Sec. 175-87.
- B. Ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians.

- C. Adequate parking facilities are provided for each use and structure in the development. Phased construction may be allowed if deemed appropriate by the Board.
- D. Major facilities or functions which require siting within scenic areas are designed to be visually compatible with the natural or historical characteristics.
- E. The project does not adversely affect the natural environment to the detriment of community character and public health and safety. In particular, the project shall be so designed as to preserve the integrity of drinking water, groundwater supply, floodplains and any other sensitive environmental features.
- F. The filing of an environmental impact report may be required by the Board for portions of the project or the project as a whole.
- G. Not less than thirty percent (30%) of the area of the PDD has been dedicated to permanently preserved open land, exclusive of parking areas.

**175-94. Design criteria.**

- A. Design standards for roads and utilities shall generally conform to those contained in the Planning Board's regulations for subdivision control insofar as reasonably applicable and consistent with Subsection B below, but the Board may vary those standards to meet the particular needs of the PDD and/or the general area.
- B. Signs within the PDD shall conform to the requirements of Article XVI of this Zoning Bylaw, applied appropriately to residential and business uses within the PDD.

**175-95. Relation to Subdivision Control Act.**

Approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control act nor oblige the Planning Board to approve any related definitive plan for subdivision nor reduce any time periods for Board consideration under that law. However, in order to facilitate processing, the Planning Board may, insofar as is practical under existing law, adopt regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Act.

ARTICLE XVIII  
**Enforcement and Administration**

**175-96. Conformance required.**

In any of the districts established hereunder, no structure or lot may be used and no structure or part thereof may be erected or exterior dimensions altered or enlarged except in conformance with this chapter; and, except as otherwise herein provided, no such use, erection or alteration or enlargement of the exterior dimensions of the structure shall be undertaken in any district unless a permit therefor has been approved by the Building Inspector.

**175-97. Enforcement; exceptions.**

This chapter shall be enforced by the Building Inspector except in those instances in which authority is expressly conferred on the special permit granting authority by General Laws, Chapter

40A (hereinafter referred to as the “Zoning Act”) or by this chapter. Each application for a building permit shall be accompanied by such plans, survey or other data as may be necessary in the opinion of the Building Inspector in the light of the provisions and purposes of this chapter.

**175-98. Violations and penalties.**

Any person violating any provision of this chapter shall be punished by a fine of not more than fifty dollars (\$50.) for each offense. Each day that such offense continues shall constitute a separate offense.

**175-99. Board of Appeals.**

There is hereby established a Board of Appeals of at least five (5) members [with not less than two (2) alternate members], who shall serve without compensation. Their appointment, duties and procedures shall be as set forth in the Zoning Act. It shall act on all matters within its jurisdiction under this chapter, as follows:

- A. To act upon appeals, including appeals of decisions by the Planning Board when acting as special permit granting authority.
- B. To issue special permits as provided in this chapter.
- C. To authorize and grant variances as provided in MGL C. 40A, Sec. 10.
- D. To also act as the Board of Appeals under the Subdivision Control Law as provided in MGL C. 41, Sec. 81Z.

**175-100. Special permits.**

- A. Special permits shall only be issued following public hearing held in accordance with Chapter 40A of the General Laws.
- B. All special permits shall be ~~limited to a twelve-month validity period~~ valid for a term of twenty-four months. ~~If the activity authorized by the special permit has not taken place within the twelve (12) months, any extension of said special permit shall require a reapplication.~~ Prior to the end of this term, the applicant may request one twelve-month extension, which may be granted without a public hearing.

Failure to commence substantial work within the term shall result in the automatic rescission of the special permit.

- C. For applications for special permits within the Coastal, Island Road and Special Places Districts, the Planning Board shall give proper notice and hold a hearing pursuant to MGL C. 40A, Sec. 11. It shall also request and consider written reports from the following town boards concerning the following issues. Said reports shall advise the Planning Board on potential impacts of the proposed uses and structures and on the possible improvements or conditions on the application.
  - (1) Board of Health: water quality and pollution of potable water supply.
  - (2) Conservation Commission: littoral ecology, pollution of wetlands and ponds and erosion.

- (3) Board of Selectmen, Marine Biologist and Shellfish Committee: marine fisheries and shellfishing.
  - (4) Building Inspector: compatibility of proposal with the character of the area and the intent of the Zoning Bylaws.
- D. Planning Board.
- (1) The Planning Board shall forward a copy of the application and any supportive information to said boards within fourteen (14) days of receiving the application. Failure of a board to submit a written advisory report on or before the date of public hearing on an application shall be considered a recommendation for approval.
  - (2) The Planning Board shall grant a special permit only if it finds that the proposed development is in harmony with the general purposes and intent of the chapter.

**175-101. Planning Board.**

- A. Establishment. The Planning Board is hereby established as the special permit granting authority for Planned Development Districts under the provisions of MGL C. 40A, Sec. 1A, as amended.
- B. Power. The Planning Board shall have the power to hear and decide, in accordance with the provisions of MGL C. 40A, Sec. 9, as amended, all applications for special permits in the Planned Development District and to waive the requirements of any rule, regulation or bylaw deemed to frustrate the purposes hereof, except those specifically mandated for the PDD.
- C. Procedure.
  - (1) In exercising the powers granted by Subsection B above, the Planning Board shall act in accordance with the provisions of MGL C. 40A, Sec. 9, 11 and 16, as amended.
  - (2) In exercising the powers granted by Subsection B above, the Planning Board may impose such conditions, safeguards and limitations, both of time and use, as it may deem reasonably appropriate to protect the neighborhood or otherwise serve the purpose of the chapter.

**175-101.1. Planning Board associate member. [Added 4-10-1990 ATM, Art. 10, approved 6-12-1990]**

In addition to members elected at Town elections or appointed to fill vacancies in accordance with MGL C. 41, Sec. 81A, the Planning Board and Board of Selectmen by majority vote may appoint one associate member to the Planning Board to serve for a term of five 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 the 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.

ARTICLE XIX  
**Miscellaneous Provisions**

**175-102. Amendments.**



This chapter may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of MGL C. 40A, Sec. 5.

**175-103. Severability; former bylaws superseded.**

- A. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
- B. This amendment supersedes any Zoning Bylaw previously adopted by the Town of Edgartown.

**175-104. Applicability.**

The provisions of the Zoning Bylaw, or any amendment thereto, shall govern applications for 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, as provided by MGL C. 40A, Sec. 6.

ARTICLE XX  
**Floodplain Zone**

**175-105. Purpose. [Amended 4-9-1996 ATM, Art. 13, approved 7-23-1996; 10-29-1998 STM, Art. 16, approved 3-1-1999]**

The Town of Edgartown, recognizing the dangers inherent upon coastal flooding at times of hurricanes or severe storms and as a means of protecting its citizens and their property, hereby establishes a series of Floodplain Overlay Districts and regulations for construction of structures and for the use of the land within these districts. Such districts are defined as shown on the Flood Insurance Rate Map, as published by the Federal Emergency Management Agency, effective July 20, 1998, and accompanied by the Flood Insurance Study for Edgartown, dated July 16, 1997, and on file with the Edgartown Town Clerk, Building Inspector and Planning Board.

**175-106. Base flood elevation levels.**

The coastal areas of the Town shall have base flood elevation levels established as designated zones: A1–A30, AO, and V1–V30 on the Flood Insurance Rate Map.

**175-107. Permits required.**

Permits for all proposed construction and uses of land within the Floodplain Districts shall be required for the following:

- A. New construction of residential or nonresidential structures.
- B. Substantial improvement (as defined) of any existing structure.
- C. The addition to existing structures of increased water, electric or gas service, toilet facilities or sewage systems.
- D. Alteration of the land form (as defined).

**175-108. Permit criteria. [Amended 4-9-1996 ATM, Art. 19, approved 7-23-1996]**

All floodplain permits granted under Sec. 175-107 shall be subject to the following provisions.

- A. Any new construction or substantial improvement to be undertaken within the Floodplain District shall be in accordance with the Massachusetts State Building Code, or Town bylaws if more restrictive.
- B. All new and replacement utility and water facilities shall be located and constructed to minimize or eliminate flood damage.
- C. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. On-site waste disposal systems are to be located avoid impairment to them or contamination from them during flooding.
- D. Approval for any alteration of the land form (as defined) shall be obtained from the Board of Appeals by special permit. No alteration of the land form shall be permitted where there may be the liability of altering the drainage or runoff to the detriment of other landholders or the Town. Before granting a special permit for the alteration of the land form, the Board of Appeals shall duly consider any recommendations by the Conservation Commission and the Planning Board.

**175-109. Additional requirements in V Zones.**

If proposed construction or alteration of the land form is located within a V Zone (as defined), all floodplain permits granted under Sec. 175-107 above shall be subject to the following additional requirements:

- A. All new construction within the V Zones (as defined) shall be located landward of the reach of mean high tide.<sup>19</sup>

**175-110. Additional requirements in AO Zones.**

For new construction and substantial improvements in the AO Zones, all floodplain permits granted under Sec. 175-107 are subject to the following additional requirements:

- A. Residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on Edgartown's Flood Insurance Rate Map.
- B. Nonresidential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on Edgartown's Flood Insurance Rate Map. **[Amended 4-9-1996 ATM, Art. 19, approved 7-23-1996]**

**175-111. Special permits.**

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<sup>19</sup> Editor's Note: Former Subsection B, which required the elevation of new construction and substantial improvements, Subsection C, which required open space below the lowest floor and Subsection D which prohibited the use of fill, all of which immediately followed this subsection, were repealed 4-9-1996 ATM, Art. 19, approved 7-23-1996.

- A. The Board of Appeals may grant a special permit in the case of:
  - (1) New construction and substantial improvements to be erected on a lot adjacent to lots where existing structures have previously been constructed below the base flood level.
  - (2) Nonresidential structures such as boathouses, boatyards or structures designed for education and research, the nature of which requires their location within the Floodplain District.
  - (3) Restoration and reconstruction of structures listed in the National Register of Historic Places or the official State Inventory of Historic Places.
- B. Special permits shall only be issued upon a determination by the Board of Appeals that:
  - [Amended 4-9-1996 ATM, Art. 19, approved 7-23-1996]**
  - (1) A state variance has previously been obtained for the project.
  - (2) Failure to grant the special permit would result in hardship to the applicant;
  - (3) The granting of the special permit will not result in increased flood heights, additional threats to public safety or extraordinary public expense or conflict with existing local bylaws; and
  - (4) The relief granted is the minimum necessary considering the flood hazard.
- C. Following the granting of such special permit, the Board of Appeals shall notify the applicant, in writing, that the issuance of a special permit to construct a structure below the base flood level will result in:
  - (1) Increased premium rates for flood insurance; and
  - (2) Increased risks to life and property.
- D. The Board of Appeals shall maintain a record of special permits, including the justification for their issuance.

**175-112. Administration.**

The Building Inspector shall administer this article as follows:

- A. He shall review proposed construction and alteration of the land form within Floodplain Districts to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law or Town bylaw.
- B. He shall obtain and maintain records of the elevation (in relation to Mean Sea Level) of the lowest floor, including basement, of all new or substantially improved structures. In addition, he shall maintain records as to whether or not such structures contain a basement.
- C. If a structure has been floodproofed, he shall obtain and maintain records of the elevation (in relation to Mean Sea Level) of the lowest floor and the elevation to which the structure was floodproofed. In addition, he shall maintain records of floodproofing certification which have been prepared by registered professional engineers and architects in relation to the adequacy of floodproofing methods.
- D. Assure that all requirements of the State Building Code are met. **[Amended 4-9-1996 ATM, Art. 19, approved 7-23-1996]**

**175-113. Definitions. [Amended 4-9-1996 ATM, Art. 19, approved 7-23-1996]**

In this article, the following terms shall have the following meanings unless a contrary meaning is required by the context or specifically prescribed. Terms not defined below shall have the meanings defined in the State Building Code.

**ALTERATION OF THE LAND FORM** – Any man-made change in the existing character of the land, including filling, grading, paving, dredging, mining, excavation or drilling operation other than routine excavation, well drilling, backfilling, grading and paving incidental to the construction of a residence or other structure for which a building permit has been issued.

**BASE FLOOD ELEVATION LEVEL** – The level to which coastal waters may rise under the effect of wind, tide and hurricane and surge. “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. “Base flood elevation levels” are measured in feet above mean sea level.

**FLOODPLAIN DISTRICT** – Those areas subject to coastal flooding at the base flood elevation levels established in Sec. 175-106 of this article. The Floodplain Districts are shown on the Flood Insurance Rate Map effective July 2, 1992, as amended, and on file with the Town Clerk in the Town Hall.

**FLOODPLAIN PERMITS** – All permits required by Sec. 175-107 of this Zoning Bylaw, and shall be in addition to all other permits required by Town bylaws and state and federal laws for the construction of a structure or the alteration of the land form.

**MEAN SEA LEVEL** – The Mean Sea Level Datum of 1929, known as the “National Geodetic Vertical Datum.”

**VELOCITY ZONES (V ZONES)** – Those direct coastal areas within a Floodplain District which may be subject to extreme damage from the velocity of wave action or storm surge. The V Zones are shown on the Flood Insurance Rate Map effective March 18, 1985, as amended, on file with the Town Clerk in the Town Hall.

## ARTICLE XXI

### **Surface Water District**

**[Added 4-14-1987 ATM, Art. 12, approved 11-16-1987]**

#### **175-114. Purpose.**

The purpose of this article is to encourage appropriate water-dependent uses of the Town’s harbors, bays and ponds, to protect and enhance the environmental quality of those waters, to minimize potential adverse effects on marine flora and fauna and wildlife habitat, to promote the safety of navigation on said waters and to minimize flooding and other storm-related hazards.

#### **175-115. Applicability.**

- A. The provisions of this article shall apply to the following waters and govern construction and use in all waterbodies and watercourses within a line extending from the northernmost point of Cape Pogue to Buoy C “3,” thence to Buoy N “4” (buoy positions noted on Chart 13238, 11th Edition, December 22, 1984), thence to the Town line of Edgartown and Oak Bluffs where it is intersected by a straight line drawn along the line extended from C “3” to N “4” to said intersection thence continuing under the Big Bridge along said Town line to where said Town line intersects the high water mark in Major’s Cove; and the article will also apply to all waters within the previously defined area seaward of mean high water, including Edgartown Inner and Outer Harbors, Katama Bay, Edgartown Great Pond, Oyster Pond, Sengekontacket Pond, Upper and Lower Trapps Ponds, Eel Pond, Cape Pogue Bay, Poucha Pond, Caleb’s Pond and waters contiguous with the above.

**175-116. Permitted uses.**

- A. 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 Chapter 91 of the General Laws 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 Chapter 40A of the General Laws, the following uses are permitted in the Water District:
- (1) Hunting.
  - (2) Swimming, snorkeling, scuba diving, boating and their instruction.
  - (3) Fishing (all legal species and methods, commercial, family permit or for sport).
  - (4) Launch service.
  - (5) Charter boating and charter fishing.
  - (6) Anchoring and mooring, including piles.
  - (7) Aquaculture and shellfish propagation.
  - (8) Services to vessels and persons thereon initiated from a land-based business or facility.
  - (9) Ferry service, sea/float planes and general commercial navigation.
  - (10) Federal, state or municipal aids to navigation.
  - (11) Additions of 10% or less to the gross floor areas of any building having vested real property rights as existing at the time of the adoption of this section.
- B. Also permitted are those uses listed in MGL, C. 40A, Sec. 3, which cannot be prohibited.

**175-117. Special permitted uses.**

- A. 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 Chapter 40A of the General Laws, the following uses may be allowed in the Water District by special permit from the Planning Board:
- (1) Boat launch ramps.
  - (2) Landing facilities for tour boats, charter boats, ferries and private launch services.
  - (3) Marinas.
  - (4) Municipal.
  - (5) Piers.

- (6) Marine biological and oceanographic research.
  - (7) Vessel service facilities.
  - (8) Temporary uses.
  - (9) Underwater electric or communication cables and underwater freshwater pipes.
  - (10) Saltwater intake or discharge pipes.
  - (11) Additions of more than 10% to the gross floor areas of any building having vested real property rights as existing at the time of the adoption of this section.
- B. Such special permit shall be granted only after the Planning Board:
- (1) Reviews the written recommendations of the Harbor Master, Conservation Commission, Marine Advisory Committee, Shellfish Committee, Board of Health and Selectmen. Upon receipt of the special permit application, the Planning Board shall forward a copy of the application to each of the above named authorities for comment. Failure of the Harbor Master, Conservation Commission, Marine Advisory Committee, Shellfish Committee, Board of Health or Selectmen to submit written recommendation to the Planning Board within 21 days of the initial filing of the special permit application shall be deemed a favorable recommendation by said authority.
  - (2) Determines that the proposed use is consistent with the provisions of the Edgartown Master Plan and the Edgartown Open Space Plan as they are from time to time adopted.
  - (3) Determines that the proposed use is a water-dependent use, meaning those uses and facilities which require direct access to or locations in marine or tidal waters and which, therefore, cannot be located inland (refer to chapter 91 of the General Law, Waterways Law).

**175-118. Definition.**

For the purposes of this article, the following definitions shall apply:

MARINA – A facility which provides dockage or berthing for more than five vessels and may also provide the services of a vessel service area. (See definition below.)

VESSEL SERVICE FACILITY – A shorefront commercial facility providing one or more of the following: vessel construction, repair or servicing; vessel storage, hauling and launching; the sale of vessels; the sale of supplies and services for vessels and their equipment and accessories; and berthing or dockage facilities for not more than five vessels not being serviced or repaired.

ARTICLE XXII

**Building Permit Limitation**

**[Added 4-12-1988 ATM, Art. 10, approved 8-30-1988; amended 11-2-1999 STM, Art. 22, approved 3-9-2000]**

**175-119. Purpose.**

The purpose of this article is to allow the town adequate time to analyze the existing and future location and speed of residential growth so as to enable comprehensive fiscal, governmental and

land use planning and to propose bylaw changes designed to accommodate the rate of growth through the preparation of a comprehensive plan.

**175-120. Temporary residential building permit limitation.**

- A. For each of two years, commencing on the first publication of notice of the Planning Board hearing, the Building Inspector shall not issue building permits for new residential dwelling units greater in number than 94 per year in the Town of Edgartown. In this article, the term “residential dwelling unit” shall mean a building or portion thereof which is designed for or occupied as a place of abode by one or more persons, either permanently or transiently, containing cooking, sleeping and sanitary facilities provided within the unit.
- B. A new residential dwelling unit shall include but not be limited to the following:
  - (1) Tear-downs, except when both of the following conditions are met:
    - (a) More than 25% of all exterior walls of the original unit remains; and
    - (b) The number of bedrooms does not increase.

**175-121. Priority permit applications.**

Two categories of building permit applicant and application are hereby established: priority applicants and applications, and nonpriority applicants and applications. Within the limitations of Sec. 175-120 and 175-124, the Building Inspector shall issue at least two permits per month to so-called priority applicants, which class of applicants is described in this section. Such priority-applicant permits will be counted under the total of 94 building permits issued per twelve-month period. In addition, such priority applicants shall sign an affidavit attesting to their intention to live in such residential dwelling units for a minimum of five years. Priority applications shall include:

- A. New primary residential dwelling units for first-time homeowners.
- B. New primary residential dwelling units to be built under any state or federal program for the construction of so-called affordable housing (including any nonsubsidized dwelling included in and allowed by such programs). For the purposes of this article, “affordable housing” shall be defined as primary dwelling units available at a cost of no more than 30% of the gross household income to households at or below 80% of the county median income as reported by the U.S. Department of Housing and Urban Development (HUD).
- C. Any new primary residential dwelling unit to be built by the Dukes County Regional Housing Authority.
- D. Any new primary residential dwelling unit to be built pursuant to the Martha’s Vineyard Commission’s Affordable Housing Action Plan in conjunction with an approved development of regional impact.
- E. Any new primary residential dwelling unit to be built under any other program or proposal found in writing by the Planning Board to have the primary effect of providing permanent year-round affordable housing, such affordable housing being defined in Subsection B above.

**175-122. Exemptions.**

The following exemptions outside of the building limitation will be permitted:

- A. Any new residential dwelling unit to be built or rebuilt to replace or restore a dwelling damaged by fire, flood or other casualty;
- B. Dormitory housing for seasonal workers, constructed pursuant to the terms of Article XI, Sec. 175-49C of this Zoning Chapter; and
- C. Nursing homes and congregate-care facilities;
- D. Dwelling units restricted, by deed, covenant or other legal document, for seasonal employee housing. **[Added 4-11-2000 ATM, Art. 18, approved 8-8-2000]**

**175-123. Special permits. [Amended 4-11-2000 ATM, Art. 18, approved 8-8-2000]**

The Zoning Board of Appeals may grant a special permit allowing an applicant to receive a building permit, with such building permit to replace one of the nonpriority building permits for the following month, so as not to exceed the limit of 94 building permits issued per year, only in the event that in the absence of relief, an applicant would suffer immediate and severe hardship, financial or otherwise, which hardship is not self-imposed.

**175-124. Building permits.**

Building permits for new residential dwelling units shall be issued in accordance with the procedures set out below:

- A. The Building Inspector shall keep a chronological record of completed building permit applications filed from the 15th day of the month through the last of the month to be issued in the following month; hereafter known as “the application period,” which is the only period during which completed applications may be submitted and be considered in the allocation system described in this Article XXII. **[Amended 4-11-2000 ATM, Art. 18, approved 8-8-2000]**
- B. On the eighth day of each month, or the next working day if the eighth is a Saturday, Sunday, or holiday, all completed nonpriority building permit applications received during the application period shall be numbered and a weighted lottery system, described below, shall be used to match the applications to the available permits. Each lottery participant shall, in addition to his or her lottery chance for the month in which the drawing is being held, have one additional chance for each prior month in which he or she applied for that lot and did not obtain a permit. For example, an applicant who submits a completed building permit application in August and whose completed application in June and July had not been awarded a permit shall have three chances in the August lottery. **[Amended 4-11-2000 ATM, Art. 18, approved 8-8-2000]**
- C. The Building Inspector shall reserve at least two of the allotted building permits for a particular month for so-called priority applicants, as defined in Sec. 175-121 above. Priority permits shall be issued in the same manner as outlined in Subsection B. **[Amended 4-11-2000 ATM, Art. 18, approved 8-8-2000]**
- D. All permits shall be site specific.
- E. All permits shall be nontransferable.
- F. Any person whose permit has lapsed by reason of nonexercise may reapply for a permit, but no sooner than 30 days after the date of expiration of such permit.



- G. A permit that has lapsed, as described in the preceding clause, shall be added to the total of allowed permits in its category type for the current month.
- H. The Building Inspector shall issue not more than eight permits in each of the first 10 months of each year and not more than seven permits in each of the last two months of the year, except that any permits not issued under this Subsection H may be issued in subsequent months of said year.
- I. At least two permits for each month must be reserved for the priority applicant category.
- J. Within a one-year period, any priority application permit that is not used by the end of the month will be rolled over into the following month as an additional priority application permit. At the end of each of the first three quarters, all remaining priority application permits still available from the preceding three months shall be rolled over to the following month as non-priority application permits.
- K. Applications remaining in, or received by, the Office of the Building Inspector after the number of permits allowed in a month has been issued will not be held over for the next month. All such applications must be resubmitted by the applicants on or after the day which starts the next month.
- L. When permits have been issued for an aggregate number of new residential dwelling units equal to 94, as certified by the Building Inspector, the Building Inspector shall cease issuing permits until the next anniversary of the effective date of this article.
- M. Applications remaining in, or received by, the Office of the Building Inspector after 94 permits have been issued in one year will not be held over for the next year. All such applications must be resubmitted by the applicants on or after the anniversary date which starts the next year.
- N. Upon the anniversary date, the Building Inspector shall resume issuing permits in the order completed applications are received on or after the anniversary date.
- O. Any permits less than 94 not issued in a year shall not be available for issuance in any later year.
- P. Each applicant shall be limited to one permit each month.
- Q. This Sec. 175-124 shall be subject to review by the Building Permit Cap Subcommittee and the Planning Board every six months.

**175-124.1. Renewal of building permit limitation.**

At the end of the two-year period described in Sec. 175-120, the Building Permit Cap Subcommittee and the Planning Board will jointly consider renewal and/or revision of the building permit limitation.

ARTICLE XXIII

**Public Utilities**

**[Added 10-18-1990 STM, Art. 30, approved 2-13-1991]**

**175-125. Application for special permit.**

For the purpose of providing a location for public utility buildings and structures which are found to be reasonably necessary for the welfare of the public and to assure that the use of land is harmonious with the character of the surrounding neighborhood and of the Town, an owner of a

tract of land situated within any district of the Town may make application to the Planning Board for a special permit which:

- A. Allows construction and maintenance of a public utility building or structure, such as but not limited to:
  - (1) Electric substation.
  - (2) Telephone exchange facility.
  - (3) Public well structure.
  - (4) Public water supply standpipe.
  - (5) Public utility office, long-term vehicle storage, maintenance building and garage.
- B. Exempts such land from dimensional requirements delineated in other articles of this chapter.

**175-126. Action by Planning Board.**

After notice and public hearing, the Planning Board may grant such a special permit, with conditions, if it finds that the proposed structure and use is in keeping with the purposes of this article.

**175-127. Application requirements.**

Each application submitted for consideration shall, unless waived by the Planning Board, have been prepared by or with the assistance of a team of professionals, including a registered landscape architect, a registered civil engineer or registered surveyor and in accordance with prevailing standards for construction of such public utility structure. In addition, the applicant shall submit other information which may be required by the Planning Board to assist in its review process. The Planning Board, at the applicant's expense, may contract with professionals, including engineers, to assist in its review of the application, which expense shall be reasonable.

**175-128. Criteria for special permit consideration.**

- A. In approving or disapproving an application, the Planning Board shall, as a minimum, take into consideration:
  - (1) Public need.
  - (2) Public benefit.
  - (3) Location on site.
  - (4) Architecture and exterior appearance.
  - (5) Landscaping and screening.
  - (6) Erosion control.
  - (7) Access roads.
  - (8) Public safety on site and nearby.
  - (9) Construction techniques and schedule.
  - (10) Maintenance of structure, landscaping and access roads.
  - (11) Lot coverage, buildings and structures not to exceed 10% of the total lot size.
- B. In addition, the Planning Board may consider other measures necessary to minimize the effect of such buildings and structures on the surrounding area during construction and during continued use.

**175-129. Site plan review.**

The Planning Board shall coordinate a joint review of the application and plan with the Board of Selectmen and the Board of Health. A written report of the site plan review shall be filed with the Planning Board prior to issuance of any special permit.

ARTICLE XXIV

**Wireless Telecommunications Facilities**

**[Added 4-11-2000 ATM, Art. 19, approved 8-8-2000]**

**175-130. Purpose.**

In order to allow for adequate and comprehensive cellular phone service to the citizens of Edgartown while protecting the character of residential neighborhoods and of the Town, the following article applies to all applications for installation of wireless communications facilities and ancillary equipment installations, including but not limited to support structure, antennas, transmitting, receiving and combining equipment, transmission cables and backup power source.

**175-131. Purpose.**

In all zoning districts, wireless communications facilities and ancillary equipment installations may be allowed by special permit from the Planning Board. Such special permit may exempt the installations from dimensional requirements delineated in other articles of this Zoning Chapter.

**175-132. Criteria for special permit.**

- A. Applicants should make an attempt to place concealed units, so called "stealth" technology, on:
  - (1) Public land; or
  - (2) Private land where owners are desirous of participating.
- B. No installations higher than 32 feet from mean natural grade, except in unusual circumstances.
- C. All installations shall be concealed, for example in existing or new structures that are compatible with the architecture of Edgartown, such as flagpoles, lightposts, steeples or other new technology as it is developed and evolves.
- D. Design of installations shall be traditional, in keeping with the character of Edgartown, and shielded from the abutting structures and public view.
- E. For installations on existing towers, tower to be structurally inspected per current industry standard. Prohibit the installation of any wireless communication towers on the Edgartown Water Company standpipes.
- F. The criteria of Sec. 175-55 and 175-100 of the Edgartown Zoning Chapter are met.

**175-133. Application.**

Each application submitted for consideration shall, unless waived by the Planning Board, have been prepared by or with the assistance of a team of professionals, including a registered landscape architect, a registered civil engineer or registered surveyor and in accordance with prevailing standards for construction of such wireless communications facilities. In addition, the applicant shall submit other information which may be required by the Planning Board to assist in its review process. The Planning Board, at the applicant's expense, may contract with professionals, including engineers, to assist in its review of the application, which expense is to be reasonable and in accordance with applicable laws of the commonwealth.

**175-134. Prohibitions.**

New wireless communications towers are prohibited.

# DIVISION 2

# SELECTMEN'S REGULATIONS

**Chapter 188**

**VEHICLES AND TRAFFIC**

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- QQ. **Driving in funerals or other processions.**
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ARTICLE VIII  
**Accident Reports; Penalties, Repealer**

- UU. **Responsibility to report accidents.**
- VV. **Violations and penalties.**
- WW. **Severability; repealer.**

**[HISTORY: Adopted by the Board of Selectmen of the Town of Edgartown 5-18-38. Amendments noted where applicable.]**

GENERAL REFERENCES

Bicycles – See Ch. 69.  
Parades – See Ch. 135.  
Recreational vehicles – See Ch. 142.  
Streets and sidewalks – See Ch. 150.  
Taxicabs – See Ch. 157.  
Unregistered vehicles – See Ch. 164.

## ARTICLE I General Provisions

### 188-1. Enactment.

The following rules and orders regulating traffic upon the streets and highways of the Town of Edgartown are hereby enacted by the Board of Selectmen of the Town of Edgartown.

### 188-2. Definitions.

For the purpose of these rules and orders, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning:

**BUS STOP** – An area in the roadway set aside for the boarding of or alighting from and parking of buses.

**CROSSWALK** – That portion of a roadway ordinarily included within the prolongation or connection of curblines and property lines at intersections or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

**EMERGENCY VEHICLE** – Vehicles of the Fire Department (Fire Patrol), police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the Police or Fire Departments.

**FUNERAL** – Any procession of mourners properly identified as such accompanying the remains of a human body.

**LANE** – A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

**OFFICER** – Any officer, any investigator, examiner or inspector of the Registry of Motor Vehicles, any constable or special officer, provided that he has his badge of office displayed over his left breast and upon his outer garment.

**OFFICIAL CURB MARKING** – That portion of a curbing, the painting of which has been authorized by the Board of Selectmen.



OFFICIAL STREET MARKING – Any painted line, legend, marking or marker of any description, painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Board of Selectmen.

OFFICIAL TRAFFIC SIGNS – All signs, markings and devices, other than signals, not inconsistent with these rules and orders, which conform to the standards prescribed by the Department of Public Works of the Commonwealth of Massachusetts and placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

PARKING – The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to an officer or traffic signs or signals or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

PEDESTRIAN – Any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.

RAILROAD CROSSING – Any intersection of ways with a railroad right-of-way.

RESTRICTED ZONE – Any area or space set aside within any town-owned parking lot for the accommodation of Town Hall employees' vehicles. **[Added 7-28-87]**

ROADWAY – That portion of a street or highway between the regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

SAFETY ZONE – Any area or space set aside within a roadway for the exclusive use of pedestrians and which has been indicated by signs, lines or markings, having the written approval of the Department of Public Works, Commonwealth of Massachusetts.

SERVICE ZONE – An area in the roadway set aside for the accommodation of commercial and transient vehicular traffic.

SIDEWALK – That portion of a street or highway set aside for pedestrian travel.

STREET or HIGHWAY – The entire width between property lines of every way open to the use of the public for purposes of travel.

TAXICAB STANDS – An area in the roadway in which certain taxicabs are required to park while waiting to be engaged.

TRAFFIC – Pedestrians, ridden or herded animals, vehicles, streetcars or other conveyances, either single or together, while using any street or highway for the purpose of travel.

VEHICLE – Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

## ARTICLE II

### **Authority and Duties of Police**

**188-3. Enforcement; direction of traffic.**

It shall be the duty of officers designated by the Chief of Police to enforce the provisions of these rules and orders. Such officers are hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of these rules and orders, provided that, in the event of a fire or other emergency to expedite traffic or safeguard pedestrians, officers of the Police or Fire Departments may direct traffic, as conditions may require, notwithstanding the provisions of these rules and orders.

**188-4. Authority to close streets temporarily.**

The Chief of Police is hereby authorized to close temporarily any street or highway in an impending or existing emergency or for any lawful assemblage, demonstration or procession, provided that there is reasonable justification for the closing of such street.

**188-5. Authority to prohibit parking temporarily.**

The Chief of Police is hereby authorized to prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency, or for a lawful assemblage, demonstration or procession, provided that there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.

**188-6. Exemptions.**

The provisions of these rules and orders shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties no to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of these rules and orders. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

## ARTICLE III

### **Traffic Signs, Signals, Markings and Zones**

**188-7. Erection and maintenance.**

- A. The Board of Selectmen is hereby authorized, and as to those signs and signals required hereunder it shall be its duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety

zones shall conform to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts.

- B. Sections 188-4 and 188-5 of Article II and Sec. 188-15 to 188-22 inclusive of Article V relating to parking shall be effective only during such time as a sufficient number of official signs are erected and maintained in each block designating the provisions of such sections and located so as to be easily visible to approaching drivers.
- C. Sections relating to one-way streets shall be effective only during such time as a sufficient number of official signs are erected and maintained at each of the exits for each one-way street, so that at least one (1) sign will be clearly visible for a distance of at least seventy-five (75) feet to drivers approaching such an exit.

**188-8. Unauthorized signs, signals and markings.**

It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic sign, signal, marking or device or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The Chief of Police is hereby empowered to remove every such prohibited sign, signal, marking or device or cause it to be removed, without notice.

**188-9. Interference prohibited; penalty.**

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be liable to a penalty not exceeding twenty dollars (\$20.) for each and every offense.

**188-10. Designation of bus stops, taxicab stands and service zones.**

The location of all bus stops, taxicab stands and service zones shall be specified by the Board of Selectmen, and in the case of taxicab stands the Board of Selectmen shall designate who may use them as such.

**188-11. Obedience required.**

No driver of any vehicle or of any streetcar shall disobey the instructions of any official traffic control signal, sign, marking, marker or legend, unless otherwise directed by a police officer.

ARTICLE IV  
**Coasting, Zones of Quiet**

**188-12. Streets reserved for coasting.**

- A. On those days when conditions are suitable for coasting, vehicular traffic is hereby prohibited from using the following streets or parts of streets, during such time as official signs are erected indicating that such streets or parts of streets are reserved for coasting:

**Name of Street**  
(Reserved)

- B. The foregoing provision shall not apply to drivers of vehicles having business within such reserved areas or to drivers of vehicles whose residences are within such reserved areas.

**188-13. Zones of quiet.**

- A. The Board of Selectmen may temporarily establish a zone of quiet upon any street where a person is seriously ill if requested to do so by the written statement of at least two (2) registered physicians certifying to its necessity. Said temporary zone of quiet shall embrace all territory within a radius of two hundred (200) feet of the building occupied by the person named in the request of said physicians. Said temporary zones of quiet shall be designated by the police by placing at a conspicuous place in the street a sign or marker bearing the words "Zone of Quiet."
- B. No person operating a motor vehicle within any designated and signed zone of quiet shall sound the horn or other warning device of said vehicle except in an emergency.

ARTICLE V  
**Parking**

**188-14. General prohibitions.**

No person shall park a vehicle in any of the following places, and vehicles found parked in violation of the provisions of this section may be moved by or under the direction of an officer and at the expense of the owner to a place where parking is permitted:

- A. Within an intersection.
- B. Upon any sidewalk.
- C. Upon any crosswalk.
- D. Upon the roadway in a rural or sparsely settled district.
- E. Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve (12) inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within twelve (12) inches of the curb. This shall not apply to streets or parts of streets where angle parking is required by these regulations.
- F. Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least ten (10) feet wide for passing traffic.
- G. Upon any street or highway within ten (10) feet of a fire hydrant.
- H. Upon or in front of any private road or driveway.
- I. Upon any street or highway within twenty (20) feet of an intersecting way, except alleys.

**188-15. Parking prohibited at all times.**

Upon the following streets or highways or parts thereof parking is hereby prohibited:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Atlantic Drive <b>[Added 6-25-85]</b>	North	From Katama Road to Herring Creek Road
Cooke Street <b>[Added 7-17-79]</b>	Both	From School Street to Pease's Point Way
Cooke Street <b>[Added 3-25-59]</b>	Both	Between South Summer Street and School Street
Cottage Street <b>[Added 7-27-82]</b>	Both	From Pease's Point Way to North Water Street
Daggett Street <b>[Added 10-10-56]</b>	Both	Between Dock Street and North Water Street
Herring Creek Road <b>[Added 7-12-77]</b>	Both	From Atlantic Drive north to a point 300 feet therefrom
Katama Road <b>[Added 7-12-77]</b>	Both	From Atlantic Drive north to a point 300 feet therefrom
Kelley Street	Both	From North Water Street to a white line 110 feet distant
Kelley Street <b>[Added 4-16-74]</b>	Southwest	From North Water Street to Dock Street
Main Street <b>[Added 3-25-59]</b>	Both	Between Pease's Point Way and Pine Street
Main Street <b>[Added 5-17-50; amended 4-10-63]</b>	South	Between Pease's Point Way and Dock Street
Main Street <b>[Repealed 5-17-50]</b>		
Mayhew Lane <b>[Added 5-24-67]</b>	South	From North Water Street to Dock Street

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
North Summer Street <b>[Added 5-17-50]</b>	West	Between a point 40 feet northerly from Main Street and a point approximately 100 feet northerly therefrom
North Summer Street	West	From the intersection of Winter Street to Main Street
North Summer Street <b>[Repealed 5-17-50]</b>		
North Water Street <b>[Added 8-14-79; amended 5-30-78]</b>	Northwest	From Winter Street to Daggett Street
North Water Street <b>[Added 5-17-80; amended 4-16-74]</b>	Southeast	From Kelley Street to Thayer Street
Pease's Point Way <b>[Added 8-4-81; amended 7-7-82]</b>	Both	In a southerly direction from Cooke Street to Clevelandtown Road
Pierce Lane <b>[Added 8-18-87]</b>	Both	From Pease's Point Way northerly to the end
Pinehurst Road <b>[Added 7-21-87]</b>	Both	From West Tisbury Road to Chase Road
School Street <b>[Amended 5-17-50; 3-17-54]</b>	South	From Main Street to Davis Lane
Simpson's Lane <b>[Added 10-10-56]</b>	Both	Between Pease's Point Way and North Water Street
South Summer Street <b>[Added 8-4-81]</b>	Both	From High Street to Pease's Point Way
South Summer Street <b>[Amended 5-17-50;</b>	East	Between Main Street and Cooke Street

**3-17-54; 5-21-69]**

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
South Water Street [Added 8-4-81]	Both	From High Street to Dunham Road
South Water Street [Added 5-17-50; amended 4-16-74]	Northwest	From Main Street to Davis Lane
West Tisbury Road [Added 5-30-84]	East	From Cooke Street to Main Street
Winter Street [Amended 5-17-80; 3-17-54]	East	Between North Water Street and Church Street
Winter Street [Added 3-17-54]	West	From a point approximately 54 feet north of North Water Street northerly for a distance of approximately 25 feet

**188-16. Parking prohibited certain hours.**

No person shall park a vehicle between the hours listed below on any of the following streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Hours/Days</b>	<b>Location</b>
Chappaquiddick Point [Added 8-23-83]	-	2:00 a.m. to 7:00 a.m./All	Parking lot
Morse Street [Added 7-13-82]	South	8:00 p.m. to 8:00 a.m./All, except Sundays and public holidays	Between North Summer Street and North Water Street
Norton Street [Added 6-15-82]	South	8:00 p.m. to 8:00 a.m./All, except Sundays and public holidays	Between Pease's Point Way and School Street

Simpson's Lane [Repealed 10-10-56]

**188-17. Safety zone prohibitions.**

No person shall park a vehicle within twenty (20) feet of either end of a safety zone which is located within thirty (30) feet of the curb or edge of the roadway.

**188-18. Bus stops.**

- A. No person shall park a vehicle other than a bus in a bus stop.
- B. No person shall park a bus upon any street within a business district at any place other than a bus stop, when a nearby bus stop is available for use.
- C. **[Added 5-16-78]** The following locations are designated as bus stops:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Church Street <b>[Amended 7-27-82]</b>	East	130 feet from the intersection of Main Street
Mayhew Lane <b>[Added 5-13-80]</b>	Northeast	150 feet from the intersection of Dock Street (Regional Transportation Authority bus only)

**188-19. Taxicab stands.**

- A. No person shall park a vehicle other than a taxicab licensed by the Town of Edgartown in any taxicab stand upon any street within the business district. **[Amended 6-4-68]**
- B. No person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his taxicab or taxicabs except while engaged or while waiting for an opportunity to use a taxicab stand designated for his use.
- C. **[Added 5-20-80]** The following locations are designated as taxicab stands:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Main Street Parking Lot	East	Corner of the entrance
North Water Street <b>[Amended 1-20-81]</b>	South	Corner of Mayhew Lane (May 1 to November 15)
South Summer Street <b>[Amended 1-20-81]</b>	West	Approximately 100 feet in a southerly direction from Main Street (May 1 to November 15)
North Water Street <b>[Added 4-29-81]</b>	North	Approximately 50 feet easterly from the intersection of Winter Street

**188-20. Service zones. [amended 5-13-80]**

- A. No person shall park a vehicle upon any street in any service zone for a period of time longer than fifteen (15) minutes except while actually engaged in loading or unloading, provided that such loading and unloading does not exceed a period of time longer than one-half (1/2) hour.
- B. **[Added 7-10-79]** The following locations are designated as service zones:



<b>Name of Street</b>	<b>Location</b>
Donnelly Parking Lot <b>[Added 5-12-81]</b>	Adjacent to the entrance to the Edgartown Post Office; 1 space for the handicapped
Main Street	Approximately 100 feet in a southeasterly direction from North Summer Street; 1 space (8:00 a.m. to 6:00 p.m.)
Main Street <b>[Added 8-3-82]</b>	At the corner of North Summer Street
Main Street	Corner of North Summer Street; 1 space (8:00 a.m. to 6:00 p.m.)
Main Street <b>[Added to 8-3-82]</b>	At the corner of North Water Street
Main Street	Corner of North Water Street; 1 space (8:00 a.m. to 6:00 p.m.)
Main Street Parking Lot <b>[Added 5-12-81; amended 8-3-82]</b>	At the northeast side of the entrance to the Edgartown Yacht Club
Mayhew Lane <b>[Amended 6-10-80]</b>	175 feet from the intersection of Dock Street on the southwest side; 2 spaces (8:00 a.m. to 10:30 p.m.)
North Summer Street	Approximately 10 feet in a northeasterly direction from the intersection of Main Street on the east side; 2 spaces (8:00 a.m. to 6:00 p.m.)
North Water Street <b>[Added 4-29-81]</b>	Northerly side from a point approximately 72 feet from the intersection of Winter Street to the intersection of Simpson's Lane (8:00 a.m. to 6:00 p.m.)
South Summer Street <b>[Amended 6-2-82]</b>	Approximately 240 feet in a southwest direction from the corner of Main Street on the west side; 1 space
South Water Street <b>[Added 6-24-80]</b>	Approximately 10 feet from the intersection of Main Street on the southwest side (8:00 a.m. to 6:00 p.m.)

**188-21. Time limit parking.**

No person shall park a vehicle for longer than the time limit shown in the following described streets or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
Church Street <b>[Added 5-24-67]</b>	East	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Winter Street
Church Street <b>[Added 6-5-63]</b>	South	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Winter Street
Cooke Street <b>[Added 4-22-80]</b>	North	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From South Water Street to Pease's Point Way
Davis Lane <b>[Added 4-22-80]</b>	North	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From South Water Street to Pease's Point Way
Dock Street <b>[Added 10-18-83]</b>	South	2 hrs.; 6:00 a.m. to 11:00 p.m./All, except Sundays and public holidays	Between Main Street and Mayhew Lane (Foot of Main Street parking lot)
Kelley Street <b>[Added 10-18-83]</b>	West	2 hr.; 6:00 a.m. to 11:00 p.m./All, except Sundays and public holidays	—
Main Street <b>[Added 10-18-83]</b>	East	2 hrs.; 6:00 a.m. to 11:00 p.m./All, except Sundays and public holidays	Between Church Street and North Summer Street (Post Office parking lot)
Main Street <b>[Added 5-24-67]</b>	North	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Pease's Point Way and Dock Street
Main Street <b>[Added 6-5-63]</b>	North	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Pease's Point Way and School Street

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
Main Street <b>[Amended 5-17-50; 3-17-54; 4-10-63; 6-5-63]</b>	North	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between School Street and Dock Street
Main Street <b>[Added 6-15-82; repealed 6-15-82]</b>			
Mayhew Lane <b>[Added 5-24-67]</b>	North	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between North Water Street and the entrance to the parking area located off northerly side of Mayhew Lane
Morse Street <b>[Added 7-13-82; amended 8-4-87]</b>	South	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays	Between North Summer Street and North Water Street
North Summer Street <b>[Added 4-22-80]</b>	East	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	Between Church street and Morse Street
North Summer Street <b>[Added 6-4-68]</b>	East	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Winter Street and Main Street
North Summer Street <b>[Amended 3-17-54]</b>	North	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Winter Street
North Summer Street <b>[Added 5-24-67]</b>	West	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Winter Street
North Water Street <b>[Added 5-24-67]</b>	East	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Mayhew Lane

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
North Water Street [ <b>Added 4-22-80</b> ]	East	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays, June 1 to September 15	Between Mayhew Lane and Kelley Street
North Water Street [ <b>Added 5-17-50; amended 5-17-54</b> ]	East	15 mins.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	From Mayhew Lane to a point opposite Winter Street
North Water Street [ <b>Amended 3-17-54</b> ]	South	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	From Main Street to Simpson's Lane
North Water Street [ <b>Added 4-22-80</b> ]	West	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	Between Kelley Street and Morse Street
Norton Street [ <b>Added 6-15-82</b> ]	South	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Pease's Point Way and School Street
Pent Lane [ <b>Added 4-22-80</b> ]	North	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From School Street to Pease's Point Way
Pine Street [ <b>Added 7-22-86</b> ]	Both	1 hr.; All/All	Entire length
School Street [ <b>Added 6-5-63</b> ]	North	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Pent Lane and Main Street
School Street [ <b>Added 5-24-67</b> ]	West	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main street and Pent Lane

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
School Street <b>[Added 4-22-80]</b>	West	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From Pent Lane to High Street
Simpson's Lane <b>[Added 4-22-80]</b>	North	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From North Water Street to Pease's Point Way
South Summer Street <b>[Added 10-10-56; amended 10-18-83]</b>	North	2 hrs.; 6:00 a.m. to 11:00 p.m./All, except Sundays and public holidays	Between Main Street and Davis Lane (Town Hall Parking Lot)
South Summer Street <b>[Added 5-6-53; amended 3-17-54]</b>	South	1/2 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	From Davis Lane to Main Street
South Summer Street <b>[Added 4-22-80]</b>	West	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From Davis Lane to High Street
South Summer Street <b>[Added 5-24-67; amended 5-21-69]</b>	West	1 hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between Main Street and Cooke Street
South Water Street <b>[Added 5-6-53; amended 3-17-54]</b>	North	15 mins.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	From Main Street to Davis Lane

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit; Hours/Days</b>	<b>Location</b>
South Water Street [ <b>Amended 3-17-54</b> ]	North	½ hr.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	From Main Street to Davis Lane
South Water Street [ <b>Added 4-22-80</b> ]	West	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From Main Street to High Street
Winter Street [ <b>Added 4-22-80</b> ]	South	1 hr.; 9:00 a.m. to 6:00 p.m./All, except Sundays and public holidays, June 1 to September 15	From North Water Street to Pease's Point Way
Winter Street [ <b>Added 5-17-50; amended 3-17-54</b> ]	South	15 mins.; 9:00 a.m. to 6:30 p.m./All, except Sundays and public holidays	Between North Water Street and Summer Street

**188-22. Angle parking.**

- A. The Board of Selectmen shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets or cause the same to be marked or signed.
- B. Upon the following streets or parts of streets which have been marked or signed for angle parking, vehicles shall be parked with one (1) wheel within twelve (12) inches of the curb and at the angle to the curb indicated by such marks or official signs. The vehicle shall be parked so that all four (4) wheels of the vehicle shall be placed wholly within the painted lines provided.

<b>Name of Street</b>	<b>Side</b>	<b>Angle (degrees)</b>	<b>Location</b>
		(Reserved)	

**188-23. Parking of vehicles for sale.**

It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale.

**188-24. All-night parking prohibited.**

It shall be unlawful for the driver of any vehicle, other than one acting in an emergency, to park said vehicle on any street for a period of time longer than three (3) hours between the hours of 12:00 midnight and 6:00 a.m. of any day.

**188-25. Parking without lights.**

In accordance with the provisions of MGL C. 90, Sec. 7, parking of a motor vehicle at night without lights is hereby permitted on the following streets or parts of streets: All streets in the Town of Edgartown.

**188-25.1 Town parking lots. [Added 7-5-67]**

The hours for parking in all town parking lots shall be as follows:

- A. Four-hour parking during the day.
- B. All-night parking from 11:00 p.m. to 9:00 a.m.

**188-25.2 Restricted parking zones. [Added 7-28-87]**

No person other than a Town Hall employee shall park a vehicle in a designated restricted zone between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted. Locations of said zones shall be as follows:

**Location**

Off South Summer Street, to the rear of Town Hall, six (6) spaces in the northerly portion of the lot.

ARTICLE VI  
**One-way Streets**

**188-26. Streets designated. [Amended 3-17-54]**

Upon the following streets or parts of streets vehicular traffic shall move only in the direction indicated below:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Limits</b>
Church Street [Added 6-15-82; repealed 10-12-83]		
Daggett Street [Amended 5-30-78]	Southeast	From North Water Street to Dock Street, for Chappaquiddick ferry parking only
Davis Lane [Added 3-25-59]	West	Between South Water Street and Pease’s Point Way
Dock Street [Added 4-29-70; repealed 5-30-75]		
Dock Street [Added 4-16-74; repealed 5-30-78]		

Green Avenue <b>[Added 6-24-75]</b>	Northeast	From Main Street to Oliver Street
Kelley Street	South	Between North Water Street and Dock Street
Main Street	South	From the Intersection of North Water Street and South Water Street to Dock Street (June 1 to October 15)
Main Street <b>[Added 4-28-54; amended 5-26-54]</b>	Southeast	Between Pease's Point Way and Water Street
Mayhew Lane <b>[Added 5-30-78]</b>	Northwest	From Dock Street to North Water Street (May 15 to September 15)
Mayhew Lane <b>[Repealed 4-28-54]</b>		
North Summer Street <b>[Added 4-16-74]</b>	Southwest	From Simpson's Lane to Winter Street
North Summer Street	West	Between Winter Street and Main Street
North Water Street <b>[Amended 5-30-78]</b>	Northeast	From Morse Street to Fuller Street (May 15 to September 15)
Oliver Street <b>[Added 6-24-75]</b>	East	From the corner of Green Avenue to Pease's Point Way
School Street <b>[Added 4-16-74]</b>	Northeast	From Cooke Street to Main Street
School Street	Northeast	Between Davis Lane and Main Street
Sibley Parking Lot (northwest entrance) <b>[Added 4-16-74]</b>	Southwest	From Kelley Street to Mayhew Lane
South Summer Street <b>[Added 4-16-74]</b>	Southwest	From Main Street to Cooke Street



South Summer Street	Southwest	Between Main Street and Davis Lane
South Water Street [Added 10-31-78]	Southwest	From Davis Lane to High Street (June 15 to September 15)
South Water Street [Added 4-16-74]	Southwest	From Main Street to Cooke Street
South Water Street	West	Between Main Street and Davis Lane
Winter Street	North	Between North Water Street and Church Street

ARTICLE VII  
**Operation of Vehicles**

**188-27. Driving within marked lanes.**

When any roadway has been divided into lanes, a driver of a vehicle shall drive so as to be entirely within a single lane and shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety.

**188-28. Use of right lane.**

Upon all roadways the driver of a vehicle shall drive in the lane nearest the right side of the roadway when said lane is available for travel except when overtaking another vehicle or when preparing for a left turn.

**188-29. Overtaking of other vehicles.**

The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead.

**188-30. Right-of-way of overtaking vehicles.**

The driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaken vehicle, on a suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

**188-31. Obstructing traffic and crosswalks.**

- A. No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or highway. Officers are hereby authorized to require any driver who fails to comply with this section to drive to the side of the roadway and wait until such traffic as has been delayed has passed.
- B. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to

accommodate the vehicle is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

**188-32. Following too closely.**

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and condition of the street or highway.

**188-33. Distance between slow moving vehicles.**

Upon roadways less than twenty-seven (27) feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow moving vehicle when travelling outside of a business or residential district shall not follow another slow moving vehicle with two hundred (200) feet, but this shall not be construed to prevent such slow moving vehicle from overtaking and passing another slow moving vehicle. This section shall not apply to funerals or other lawful processions.

**188-34. Care in starting, stopping, turning or backing.**

The driver of any vehicle, before starting, stopping, turning from a direct line or backing shall first see that such movement can be made in safety. If the operation of another vehicle should be affected, by a stopping or turning movement, the driver of such vehicle shall be given a plainly visible signal, as required by the following section.

**188-35. Stopping and turning signals.**

- A. Any signal herein required shall be given sufficient time in advance of the movement indicated to give ample warning to any person who may be affected by said movement and shall be given either by means of the hand and arm in the manner specified or by a suitable mechanical or electrical device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being made or from being visible both to the front and rear, the signal shall be given by a suitable device.
- B. Hand and arm signals, as required herein shall be made as follows:
  - (1) An intention to stop shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle.
  - (2) An intention to turn to the left shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle and by pointing to the left with the index finger.
  - (3) An intention to turn to the right shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle and by moving the hand in a circle.

**188-36. Obedience to isolated stop signs; intersections designated.**

- A. Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him an official sign bearing the word "stop" and authorized by this section, said sign having, apart from this regulation, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at a place between said stop sign and the nearer line of the street intersection. In the case of a line of two (2) or more vehicles approaching such stop sign, the drivers of the second and third vehicles in line in any given group shall not be required to stop

more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device or except as provided in Sec. 188-43B.

- B. In accordance with Subsection A, the erection and maintenance of an official stop sign or signs are authorized as follows:

<b>Stop Sign on</b>	<b>Direction of Travel</b>	<b>At Intersection of</b>
Church Street [Added 7-29-75]	Northeast	Winter Street
Clevelandtown Road [Added 5-10-50]	North	Pease's Point Way and Katama Road
Cooke Street	Both	Pease's Point Way
Cooke Street	Both	School Street
Cooke Street [Added 3-17-54]	Both	South Summer Street
Cooke Street	East	Water Street
Cottage Street [Added 5-10-50]	Both	Fuller Street
Cottage Street [Added 5-10-50]	West	Pease's Point Way
Cottage Street [Added 10-10-56]	West	Pease's Point Way
County Road [Added 8-7-71]	South	West Tisbury Road
Davis Lane	Both	School Street
Davis Lane [Added 3-17-54]	Both	South Summer Street
Davis Lane [Added 5-10-50]	East	South Water Street
Davis Lane [Added 8-2-67]	West	Pease's Point Way

Edgartown-Vineyard Haven Road <b>[Added 5-20-80]</b>	South	Beach Road
Fuller Street <b>[Added 5-21-69]</b>	South	Morse Street
High Street <b>[Added 8-2-67]</b>	East	School Street
High Street	East	Summer Street
High Street <b>Stop Sign on High Street</b>	West <b>Direction of Travel West</b>	Pease's Point Way <b>At Intersection of School Street</b>
High Street <b>[Added 4-6-55]</b>	West	South Summer Street
Morse Street <b>[Added 3-16-71]</b>	East	North Water Street
Morse Street <b>[Added 5-21-69]</b>	West	Pease's Point Way
North Summer Street <b>[Added 5-10-50]</b>	Both	Winter Street
Pease's Point Way <b>[Added 5-17-50]</b>	South	Main Street
Pease's Point Way <b>[Added 7-15-69]</b>	South	South Water Street
Pinehurst Road <b>[Added 12-9-80]</b>	Northwest	Chase Road
Pinehurst Road <b>[Added 3-5-81]</b>	Northwest	Chase Road
Planting Field Way <b>[Added 7-29-75]</b>	South	Pease's Point Way
Pond Lot Road <b>[Added 8-18-87]</b>	North	Edgartown Bay Road
Robinson Road <b>[Added 3-16-71]</b>	Northwest	West Tisbury Road

School Street [Added 5-10-50]	South	Pease's Point Way
Simpson's Lane [Added 3-17-54]	Both	North Summer Street
South Water Street [Added 5-10-50]	South	Pease's Point Way and Katama Road
Winter Street [Added 5-25-82]	Northwest	Pease's Point Way

**188-37. Obedience to yield signs; intersection designated. [Added 5-21-69]**

- A. Every driver of a vehicle or other conveyance approaching an intersection of ways, where there exists facing him an official sign bearing the word "yield," said sign having been erected in accordance with the written approval of the Department of Public Works of the Commonwealth of Massachusetts and such approval being in effect, shall surrender to oncoming traffic his right to enter the intersection until such time as he has brought his vehicle or other conveyance to a complete stop at a point between said "yield" sign and the nearer line of the street intersection; provided, however, that this requirement to stop before entering the intersection shall not apply when a driver approaching a "yield" sign can enter the intersection in safety without causing interference to approaching traffic. This section shall not apply when the traffic is otherwise directed by an officer or by a local traffic regulating sign, signal or device or as provided in Sec. 21(c) of Article 4, Department of Public Works Rules and Regulations.
- B. In accordance with the foregoing, the erection and maintenance of an official "yield" sign or signs are authorized as follows:

<b>Yield Sign on</b>	<b>Direction of Travel</b>	<b>At Intersection of</b>
Cooke Street	West	Main Street
Herring Creek Road	Northeast	Katama Road
Plantingfield Way	South	Pease's Point Way
Robinson Road	West	West Tisbury Road

**188-38. Keeping to right of roadway divisions.**

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, drivers shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings.

**188-39. Driving on roads under construction or repair.**

No operator shall enter upon the road surface of any street or highway or section thereof when, by reasons of construction, surface treatment, maintenance or the like or because of some unprotected hazard, such road surface is closed to travel, and one (1) or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway

is not to be used, or when so advised by an officer, watchman, member of a street or highway crew or employee of the town, either audibly or by signals.

**188-40. Driving on sidewalks.**

The driver of a vehicle shall not drive upon any sidewalk, except at a permanent or temporary driveway.

**188-41. Driving through safety zones.**

It shall be unlawful for the driver of a vehicle, except on signal from a police officer, to drive the same over or through a safety zone.

**188-42. Identification of funerals.**

A funeral composed entirely or partly of a procession of vehicles shall be identified as such by means of black pennants bearing a purple cross attached to both the first and the last vehicles.

**188-43. Driving in funerals or other processions.**

- A. It shall be the duty of each driver in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as is practicable and safe.
- B. At an intersection where a lawful stop sign exists, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection.

**188-44. Sounding of horns.**

The driver of a vehicle shall give an audible warning with his horn or other suitable warning device whenever necessary to ensure safe operation.

**188-45. Dropping or leaking loads from vehicles.**

No vehicle shall be driven or moved on any street or highway nor shall any owner of any vehicle knowingly permit such vehicle to be driven or moved on any street or highway unless such vehicle is so constructed or so loaded as to prevent its contents from spilling, dropping, sifting, leaking or otherwise escaping therefrom. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered to prevent the contents from being blown upon the streets or highways.

**188-46. Emerging from alleys or driveways.**

The operator of a vehicle emerging from an alley, driveway or garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alleyway or driveway.

**188-46.1. Vehicle weight limits. [Added 5-28-68]**

Gross weight limits are established as indicated for commercial vehicles upon the streets or portions thereof described below:

<b>Name of Street</b>	<b>Max Gross Weight (pounds)</b>	<b>Location</b>
	(Reserved)	

ARTICLE VIII  
**Accident Reports; Penalties; Repealer**

**188-47. Responsibility to report accidents.**

The driver of any vehicle involved in an accident resulting in the injury or death of any person or property damage to an apparent total extent of twenty-five dollars (\$25.) or more shall, within twenty-four (24) hours, make a full and complete report in writing of such accident to the police headquarters in this town. A driver who has been incapacitated as a result of such accident, and to such extent as to make reporting impossible or unfavorable to his recovery, shall not be required to report such accident until he has recovered sufficiently to be able to do so. The report shall be made on a form furnished by the Police Department, copies of which shall be available at the police station. Compliance with this section, however, shall not relieve such driver from the additional responsibility of reporting to the Registrar of Motor Vehicles any accident in which a person is killed or injured.

**188-48. Violation and penalties.**

Except as otherwise provided by statute or by any commission, department or other body authorized by law to impose penalties for violations of rules, regulations and orders governing the use and operation of vehicles, any person convicted of violating any of the provisions of the foregoing rules and regulations shall be punished by a fine of not more than two dollars (\$2.) for the first offense and not more than twenty dollars (\$20.) for each subsequent offense of a like nature committed during any period of one (1) year, unless otherwise herein provided.

**188-49. Severability; repealer.**

- A. These rules are adopted with the intent that each of them shall have force and effect separately and independently of every other, except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule of part thereof.
- B. The provisions of these rules so far as they are the same in effect as those of any existing rules, orders or regulations heretofore made by the Selectmen of Edgartown relative to or in connection with official signs, lights, markings, signal systems or devices shall be construed as a continuation thereof, but all other existing rules, orders and regulations so made for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not affect any punishment or penalty imposed or any complaint or prosecution pending at the time of the passage hereof for an offense committed under any of the said rules, orders or regulations hereby repealed.

# DIVISION 3

# MISCELLANEOUS



## **Chapter 202**

### **SUBDIVISION OF LAND<sup>20</sup>**

#### **ARTICLE I Authority**

**202-1. Adoption of rules and regulations.**

#### **ARTICLE II General Provisions**

**202-2. Definitions.**

**202-3. Plan believed not to require approval.**

**202-4. Approval required prior to subdivision.**

**202-5. Subdivisions of fewer than three lots.**

**202-6. Advisory Committee for Subdivision Review.**

#### **ARTICLE III Plan Submission and Approval Procedure**

**202-7. Preliminary plan.**

**202-8. Definitive plan.**

#### **ARTICLE IV Design Standards**

**202-9. Streets and paths.**

**202-10. Easements.**

**202-11. Parks and open spaces.**

**202-11.1. Edgartown Ponds Area District**

**202-12. Protection of natural features.**

#### **ARTICLE V**

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<sup>20</sup> Editor's Note: These rules and regulations were adopted under the Subdivision Control Law, MGL C. 41, Sec. 81K to 81GG, inclusive. These rules and regulations are being reviewed and may be out of date. For current regulations we refer you to The Rules and Regulations Governing the Subdivision of land in Edgartown, adopted in 1973, and as amended. <http://www.edgartown-ma.us/Section 3 - 2018 - Rules and Regulations Governing the Subdivision of Land in Edgartown.pdf>

## Required Improvements for Approved Subdivisions

- 202-13. Streets and roadways.
- 202-14. Utilities.
- 202-15. Sidewalks.
- 202-16. Street trees.
- 202-17. Monuments.
- 202-18. Cleanup and removal of materials.
- 202-19. Streetlights.

### ARTICLE VI Inspection and Testing

- 202-20. Work subject to review.
- 202-21. Designation of agent.
- 202-22. Disapproved work.
- 202-23. Points of inspection.
- 202-24. Inspection procedures.
- 202-25. Additional inspections.
- 202-26. Lines and grades.
- 202-27. Order of inspections.

### ARTICLE VII Administration

- 202-28. Variances.
- 202-29. Statutory provisions to govern.
- 202-30. Erection of buildings.

### ARTICLE VIII Time Limitation

- 202-31. Deadline for completion.  
Steps the Subdivider Should Take

[HISTORY: Adopted by the Planning Board of the Town of Edgartown as amended through 7-29-81. Amendments noted where applicable.]

#### GENERAL REFERENCES

Planning Board – See Ch. 45.  
Zoning – See Ch. 175.

EDGARTOWN CODE

ARTICLE I  
**Authority**

**202-1. Adoption of rules and regulations.**

Under the authority vested in the Planning Board of the Town of Edgartown by MGL C. 41, Sec. 810, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Edgartown.

ARTICLE II  
**General Provisions**

**202-2. Definitions.**

As used in these rules and regulations, the following terms shall have the meanings indicated:

PRELIMINARY PLAN – A plan of a proposed subdivision or resubdivision of land drawn on tracing paper, or a print thereof, showing the subdivision name, approximate boundaries, approximate acreage, legend and title “Preliminary Plan”; the name of the owner of record; adequate description of the location of the property so that the general relationship to abutting properties is described (the names of abutters should be noted when known); the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; the proposed system of drainage, including adjacent existing natural waterways, in a general manner; the approximate boundary lines of proposed lots, with approximate areas; the names and approximate location of adjacent streets; the topography of the land in a general manner; and preferred building locations.

SUBDIVISION – The division of a tract of land into two (2) or more lots, and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision of land or territory subdivided; provided, however, that the division of a tract of land into two (2) or more lots shall not be deemed to constitute a “subdivision” within the meaning of the Subdivision Control Law if, at the time when it is made every lot within the tract so divided has frontage on a public way or a way shown on a plan theretofore approved in accordance with the Subdivision Control Law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon, or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by a zoning or other ordinance or bylaw, if any, of said town for erection of a building on such lot, and, if no distance is so required, such frontage shall be of at least twenty (20) feet. Conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth or the division of a tract of land on which two (2) or more buildings were standing when the Subdivision Control Law went into effect in the city or town in which the land lies into separate lots on each of which one (1) of such buildings remains standing shall not constitute a “subdivision.” (MGL C. 41, Sec. 81-L)

**202-3. Plan believed not to require approval.**

- A. Any person who wishes to cause to be reported in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit a plan prepared by a registered land surveyor, which shall clearly and legibly drawn in black India ink upon tracing cloth along with a Form A application<sup>21</sup> and a filing fee of twenty-five dollars (\$25.) to the Planning Board, accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery of registered mail, a notice with the Town Clerk stating the date of submission for such determination, accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give written receipt therefor.
- B. If the Planning Board determines that the plan does not require approval, it shall, without a public hearing and without unnecessary delay, endorse on the plan the words "Approval under the Subdivision Control Law not required."
- C. The Planning Board may add to such endorsement a statement of the reason approval is not required. The plan will be returned to the applicant, and the Planning Board shall notify the Town Clerk of its action.
- D. If the Planning Board determines that the plan does require approval under Subdivision Control Law, it will so inform the applicant and return the plan. The Planning Board will also notify the Town Clerk of its action.
- E. If the Planning Board fails to act upon a plan submitted under this section within fourteen (14) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. The day of the next regular Board meeting shall be considered to be the date of the submission for plans believed not to require approval.

**202-4. Approval required prior to subdivision.**

- A. No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the town or proceed with the improvement or sale of lots in a subdivision or the construction of ways or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided.
- B. This shall also include all parcels of land which fall under Sec. 81ff of the Subdivision Control Law.

**202-5. Subdivisions of fewer than three lots.**

In a subdivision of three (3) or fewer lots, the Planning Board may approve said subdivision without the necessity of a public hearing when it is evident from the subdivision plan that the lots cannot be further subdivided, proper access is provided and the public safety will not be impaired.

**202-6. Advisory Committee for Subdivision Review.**

- A. There shall be established an Advisory Committee for Subdivision Review, consisting of the following membership:

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<sup>21</sup> Editor's Note: Forms are on file in the office of the Planning Board.

- (1) The Chairman of the Planning Board or his representative.
- (2) One (1) representative of the Board of Selectmen.
- (3) One (1) representative of the Board of Health.
- (4) One (1) representative of the Edgartown Water Company.
- (5) One (1) representative of the Edgartown Fire Department.
- (6) One (1) representative of the Edgartown Police Department.
- (7) One (1) representative of the Town Conservation Commission.
- (8) One (1) representative of the Town Tax Assessor's office.
- (9) One (1) representative of the Highway Department.
- (10) One (1) representative of the Sewage Department.<sup>22</sup>
- (11) The Town Counsel.

- B. The Planning Board may, at its discretion, call a meeting of either the entire Advisory Committee or any constituent members thereof for the purpose of reviewing any subdivision with regard to the various and respective functions which may require greater scrutiny. While only the Planning Board is permitted to rule on a subdivision, the recommendations of the Advisory Committee and/or its constituent members shall be taken into account. The Planning Board may refer a subdivision to the Advisory Committee at any time in the application process, including at the time of submission of a preliminary plan.

### ARTICLE III

#### **Plan Submission and Approval Procedure**

#### **202-7. Preliminary plan.**

- A. General. It is strongly recommended that a preliminary plan be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and tentative approval, modification or disapproval by each Board. The submission of such a preliminary plan will enable the subdivider, the Planning Board, the Board of Health, the Subdivision Advisory Committee and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared. A properly executed application Form B<sup>23</sup> shall be filed with the preliminary plan submitted to the Planning Board. The day of the next regular Planning Board meeting shall be considered to be the date of submission.
- B. Contents.
- (1) The preliminary plan shall be drawn at a suitable scale and filed with two (2) copies at the office of the Planning Board. It is not necessary that this preliminary plan be prepared by an engineer or surveyor. The purposes of the preliminary plan are well served if the

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<sup>22</sup> Editor's Note: Article 50, 4-15-1988 ATM, provided as follows: "Moved that the town vote to change the name of the Edgartown Sewer Department to the Edgartown Wastewater Treatment Facility."

<sup>23</sup> Editor's Note: Forms are on file in the office of the Planning Board.

subdivider himself makes a sketch which shows the information described under the definition of a preliminary plan so as to form a clear basis for discussion of its problems and for preparation of the definitive plan (Subsection B2) and the financial arrangements (Subsection B3) will be developed. An example of a properly executed preliminary plan is available at the office of the Planning Board.

(2) Impact statement. For subdivisions of land in excess of five (5) acres or where six (6) or more lots are to be created, an impact statement containing as many of the thirteen (13) items outlined below as deemed appropriate by the Planning Board will be required for the definitive plan. Discussion of the preliminary plan will develop most of this information. Providing as much of this information as possible at the time of submission of the preliminary plan will be helpful to the Planning Board. However, only items in following Subsections B(2)(a)[1] and B(2)(m) must be included with the preliminary plan.

(a) Population changes.

[1] Increase in legal residents.

[2] Peak seasonal population.

[3] Estimated educational requirements.

(b) Increase in vehicular traffic.

(c) Provision of housing for town residents and for persons of low and moderate income, if any.

(d) Increases in various municipal service costs such as trash pickup, police protection, road maintenance, streetlighting and other costs, where applicable, and estimated increased assessed valuation.

(e) Estimated increase in groundwater consumption and/or utilities whose capacity may be strained as a result of the development in question.

(f) Natural drainage patterns and design of man-made system, if any.

(g) Estimated solid waste generated by the development.

(h) Soil types and drainage characteristics and levels of groundwater.

(i) Areas where scrub or forest vegetation cover is to be removed.

(j) Adequate design provisions to guard against pollution of the water supply.

(k) Predetermination of scenic vistas existing on the property as well as the view from the chief adjacent thoroughfare(s).

(l) Harmony with the character of the surrounding development.

(m) Open space to be set aside, if any.

(n) If the subdivision is located within the Edgartown Ponds Area District, a management plan in order to protect water quality for shellfish propagation, to protect wildlife habitats and to maintain scenic vistas. **[Added 4-10-1990 ATM, Art. 11, approved 6-29-1990]**

C. Approval. The Planning Board may give such preliminary plan its approval, with or without modification. Such approval does not constitute approval of a subdivision. Action shall be taken by the Planning Board within sixty (60) days.

## **202-8. Definitive plan.**

### **A. General.**

- (1) The procedures and requirements for submission and approval of a definitive plan allow the Planning Board, the Advisory Committee for Subdivision Review, the Board of Health, abutters and the town in general to review the proposed subdivision as provided by law. This process is usually expedited by a prior submission of a preliminary plan.
- (2) Any person who submits a definitive plan of a subdivision to the Planning Board for approval shall file with the Board the following:
  - (a) An original drawing of the definitive plan and three (3) contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.
  - (b) A properly executed application Form C.<sup>24</sup>
  - (c) A filing fee of one hundred fifty dollars (\$150.) for four (4) or fewer lots and a fee of one hundred fifty dollars (\$150.) plus twenty-five dollars (\$25.) per lot over four (4).
- (3) The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application (Form C).<sup>25</sup>

### **B. Contents.** The definitive plan shall be prepared by an engineer and registered land surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one (1) inch equals one hundred (100) feet or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall preferably not exceed twenty-four by thirty-six (24 x 36) inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The definitive plan shall contain the following information:

- (1) Subdivision name, boundaries, North point, date, scale and zoning classification.
- (2) Name and address of the owner of record, subdivider, engineer and surveyor and his registration stamp.
- (3) Names of all abutters as they appear in the most recent tax lists.
- (4) Lines of existing and proposed streets, ways, lots, easements, utilities and public or common areas within the subdivision. The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.
- (5) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line and to establish these lines on the ground.
- (6) Location of all permanent monuments properly identified as to whether existing or proposed.

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<sup>24</sup> Editor's Note: Forms are on file in the office of the Planning Board.

<sup>25</sup> Editor's Note: Forms are on file in the office of the Planning Board.

- (7) Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
  - (8) Indication of the purpose of easements.
  - (9) Land or streets proposed for dedication to the Town of Edgartown or other body.
  - (10) Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person) and reference to covenants if required.
  - (11) Existing and proposed topography at a suitable contour interval if required by the Planning Board.
  - (12) If required by the Planning Board, existing profiles on the exterior lines and proposed profile on the center line of proposed streets at a horizontal scale of one (1) inch equals forty (40) feet and vertical scale of one (1) inch equals four (4) feet, or such other scales acceptable to the Planning Board. All elevations shall refer to the town datum.
  - (13) Proposed layout of storm drainage, water supply and sewerage disposal systems, including pipe lengths and diameters.
  - (14) A study and evaluation of the environmental impact of the subdivision as defined in Sec. 202-7B(2).
  - (15) Base flood elevation (the level of the one-hundred-year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, for that portion within the Floodplain District.
- C. Action by the Board of Health. At the time of the filing of a definitive plan, the subdivider shall also file with the Board of Health two (2) contact prints of the definitive plan, dark line on white background. The Board of Health shall, within forty-five (45) days after filing of the plan, report to the Planning Board, in writing, approval or disapproval of said plan. Referral to the Subdivision Advisory Committee, or any components of same, may occur at this stage. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health and include such specific findings and the reasons therefor in such report and, where possible, shall make recommendations for the adjustment thereof. Every lot (so located that it cannot be served by a connection to the municipal sewer system) shall be provided with a cesspool or septic tank and drain field satisfactory to the Board of Health.
- D. Public hearing. Before any action on the definitive plan is taken, a public hearing shall be held by the Planning Board. Notice of such hearing and a subdivision plot plan shall be published by the Planning Board in a newspaper of general circulation in each of two (2) consecutive weeks, the first notice to be at least fourteen (14) days prior to the public hearing. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax lists.
- E. Performance guaranty. Before approval of a definitive plan of subdivision, the subdivider shall agree to complete the required improvements specified in Article V for any lots in a subdivision, such construction and installation to be secured by one (1), or in part by one (1) and in part by the other, of the following methods which may from time to time be varied by the applicant.



- (1) Final approval with bonds or surety. The subdivider shall either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Article V not covered by a covenant under Subsection E(2) hereof. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and as to the sureties by the Selectmen and shall be contingent on the completion of such improvements within two (2) years of the date of the bond.
  - (2) Final approval with covenant. The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services specified in Article V not covered by bond or deposit under Subsection E(1) hereof shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed.
- F. Reduction of bond or surety. The penal sum of any such bond or the amount of any deposit held under Subsection E(1) above may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required.
- G. Release of performance guaranty. Upon the completion of improvements required under Article V, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the subdivider may orally request and agree on terms of release with said Planning Board, or he may send by registered mail to the Town Clerk a written statement in duplicate that said construction or installation in connection with which such deposit, bond or covenant has been given has been completed in accordance to the requirements contained under Article V, such statement to contain the address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board. If the Planning Board determines that said construction or installation has not been completed, it shall specify to the applicant in writing and via registered mail the details wherein said construction or installation fails to comply with the requirements contained under Article V. Upon failure of the Planning Board to act on such application within forty-five (45) days after the receipt of the application by the Town Clerk all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned, and any such covenant shall become void. In the event that said forty-five-day period expires without such specification, the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.
- H. Certificate of approval. The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of the majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board), but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the

Planning Board that no appeal has been filed. After the definitive plan has been approved and endorsed, the applicant shall furnish the Planning Board with three (3) prints thereof. Final approval of the definitive plan does not constitute the laying out or acceptance by the town of streets within a subdivision.

ARTICLE IV  
**Design Standards**

**202-9. Streets and paths.**

A. Location and alignment.

- (1) All streets, pedestrian paths and bicycle paths in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular and pedestrian travel. Due consideration shall also be given by the subdivider to the attractiveness of layout in order to obtain the maximum livability and amenity of the subdivision and town. Rigid geometric street layouts are discouraged. A system of paths for pedestrians and/or bicyclists which does not necessarily follow the streets is encouraged as a means of increasing safety and enjoyment and for reducing traffic.
- (2) The proposed streets and paths shall conform, as far as practicable, to any Master or Study Plan (or portions thereof) in existence or adopted at the time of the subdivision application. If a subdivision is located within the Edgartown Ponds Area District, proposed streets and paths shall conform to the required management plan. **[Amended 4-10-1990 ATM, Art. 11, approved 6-29-1990]**
- (3) Provision satisfactory to the Planning Board shall be made for the proper projection of streets and paths or for access to adjoining property which is not yet subdivided.
- (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- (5) Street jogs with center-line offsets of less than one hundred twenty-five (125) feet should be avoided.
- (6) The minimum center-line radii of curved streets shall be one hundred (100) feet for major streets and sixty (60) feet for minor streets. Greater or lesser radii may be required or permitted based on present and future vehicular traffic.
- (7) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty degrees (60°).
- (8) Property lines at right-of-way intersections shall be rounded so that the rights-of-way meet on a curve with not less than a thirty-foot radius.
- (9) The Highway Department may, at any time, propose changes in street specifications to the Planning Board.

B. Width.

- (1) The minimum width of street rights-of-way shall be no less than forty (40) feet for major streets and thirty (30) feet for minor streets. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular traffic.

- (2) The minimum width of the rights-of-way for pedestrian or bicycling paths shall be five (5) feet. A greater width may be required by the Planning Board based on local conditions or present and future use.
- C. Grade. Grades of streets shall be not less than five-tenths percent (0.5%). Grades shall be not more than six and zeroes tenths percent (6.0%) for principal streets nor more than twelve percent (12%) for secondary streets.
- D. Dead-end streets.
  - (1) Dead-end streets shall not be longer than five hundred (500) feet unless, in the opinion of the Planning board, a greater or lesser length is necessitated by topography or other local conditions.
  - (2) Dead-end streets shall be provided at the closed end with turnarounds (and in some cases with intermediate turnarounds) having sufficient space and configuration for a vehicle thirty (30) feet in length to turn around. Examples of possible configurations are turnarounds with sixty-foot radii and hammerheads of sixty-foot lengths with rounded edges and a thirty-foot radius curves.
  - (3) When the Planning Board approves a dead-end road longer than five hundred (500) feet, it may require that provisions be made in right-of-way design, roadway design and/or covenants or other means for intermediate turnarounds [as described in Subsection D(2) above].

**202-10. Easements.**

- A. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve (12) feet wide.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Planning Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for construction or other necessary purposes.

**202-11. Parks and open spaces.**

Before approval of a plan, the Planning Board may also, in proper cases, require the plan to show a park or parks suitably located for playground or recreation purposes or for providing open spaces. They shall not be unreasonable in area in relation to the land being subdivided and to the respective uses of such land. The Planning Board may, by appropriate endorsement on the plan, require that no building be erected upon such parks or open spaces without its approval. The Planning Board may also require linear greenbelts in developments along major thoroughfares, with the house lots not fronting along that road but along side access roads; this is to avoid impedance of vehicular traffic caused by development facing directly along main roads.

**202-11.1. Edgartown Ponds Area District. [Added 4-10-1990 ATM, Art. 11, approved 6-29-1990]**

- A. The Martha's Vineyard Commission has determined that the controlled development of lands and waters within the Edgartown Ponds Area District of Critical Planning Concern is essential in order to protect water quality for shellfish propagation, to protect wildlife habitats and to

maintain scenic vistas. Consequently, the Planning Board shall require that, for subdivisions in the Edgartown Ponds Area District, the average length of the side or rear lot lines of buildable lots in a subdivision which abut a coastal water body exceeding ten (10) acres in size, or the ocean, shall be not less than three hundred (300) feet.

- B. The Board shall have the power to and upon request may waive the three-hundred-foot requirement if the Board finds, in writing, that the development plan will protect wildlife habitat, will protect the quality of water which supports shellfish propagation and will maintain scenic vistas. In considering a request for such a waiver, the Board shall consider the following in the development plan:
  - (1) Siting of structures so as to preserve natural slopes, public view, open space and wildlife habitats.
  - (2) Landscape and site preparation consistent with natural terrain.
  - (3) Accessways following natural contours of site.
  - (4) Measures to prevent water pollution.
  - (5) Measures to prevent erosion and sedimentation.
  - (6) Such other design guidelines as the Planning Board shall, with the recommendation of the Advisory Committee, from time to time adopt.

**202-12. Protection of natural features.**

- A. Due regard shall be shown for the topography and all natural features such as large trees, watercourses, scenic points, historic spots and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. If the subdivision is located within the Edgartown Ponds Area District, due regard shall be shown for all natural features in order to protect water quality for shellfish propagation, to protect wildlife habitats, and to maintain scenic vistas. **[Amended 4-10-1990 ATM, Art. 11, approved 6-29-1990]**
- B. If development plans call for extensive moving of soil or gravel, with related grading, or if extensive excavation is planned, then the work involved and proposed improvements must be explained in detail at the time of initial application.

ARTICLE V

**Required Improvements for Approved Subdivisions**

**202-13. Streets and roadways.**

- A. The roadway of each street or way shall be cleared of all stumps, brush, roots, boulders and like material.
- B. All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with suitable material.
- C. All roadways shall be brought to a finished grade, which shall conform to the profiles on the definitive plan when such profiles have been required. A minimum of six (6) inches on top will consist of a well compacted binding material, approved by the Planning Board's agent. This roadway shall be finished to a width specified by the Planning Board, which width shall be at least eight (8) feet for each lane of traffic or for each pull-off it is to contain, to be located,

insofar as practicable, centrally within the street right-of-way. Other widths may be required when deemed necessary. The shoulder and slopes shall be a minimum of two (2) feet on either side of the roadway, loamed, graded and seeded.

- D. When deemed necessary by the Planning Board, the completed surface shall be paved for the full width of a roadway with a two-course bituminous concrete pavement, Type I, applied with a one and one-half-inch (after compaction) base course and a one and one-half-inch (after compaction) finish course. All roads proposed for layout and acceptance by the town shall be paved according to the standards in this section. No paving shall be done with frost in the ground or from November 15 to April 1, or when the air temperature is below forty-five degrees Fahrenheit (45° F.), except with written authorization from the Planning Board agent.
- E. Until such time as the town accepts the road, full and proper maintenance will be the responsibility of the developer or the collective body of lot owners.

#### **202-14. Utilities.**

- A. Sewer pipes and related equipment such as manholes and connecting Y's shall be constructed in conformity with the engineering specifications put forward by the Sewer Commission.<sup>26</sup> When the Planning Board finds that the subdivision lies within a reasonable distance of existing water and sewer systems (or systems under construction), the developer must connect each individual lot to the available facility(-ies) and must do so at his expense and in accord with any town regulations or Planning Board specifications.
- B. Adequate disposal of surface water shall be provided, whether natural or man-made. Any catch basins and/or leaching fields required shall be built to engineering specifications put forth by the Planning Board and shall provide sufficient drainage for fifty-year storm capacity.
- C. Water pipes and related equipment, such as hydrants and main shutoff valves, shall be constructed to serve each individual lot on each street in the subdivision in conformity with specifications of the proper local agency when the subdivision lies within a reasonable distance of existing water systems and the Planning Board feels that they should be connected to it.
- D. The underground installation of utilities in a subdivision shall be mandatory in all subdivisions except when, in the opinion of the Planning Board, this requirement may be waived.
- E. All utilities shall be installed with the appropriate connections to the edge of the road layout for each lot and tested before paving.

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<sup>26</sup> Editor's Note: Article 51, 4-15-1988 ATM, provided as follows: "Moved that the town vote to change the name of the Edgartown Sewer Commission to the Edgartown Wastewater Commission."

**202-15. Sidewalks**

- A. Pedestrianways. Pedestrianways and/or bicycle paths shall be cleared of all vegetation which would inhibit walking or bicycling. Application of hardening materials or paving may be required according to specification of the Planning Board.
- B. Sidewalks shall be constructed in conformity with specifications of the Highway Department or Planning Board when such sidewalks are deemed necessary by the Planning Board for the proper improvement of the land and the safety of pedestrians.

**202-16. Street trees.**

- A. Requirements. The subdivider may be required to plant trees on the planting strip on any street in the proposed subdivision wherever there are no existing woodlands. When required, not less than one (1) tree for each lot shall be provided, nor shall the distance between each tree be more than fifty (50) feet.
- B. Specifications. Before the trees are planted, a plan showing their proposed location and species shall be submitted to the Planning Board for study and recommendation, and the Board may prevent the planting of certain species that are subject to pests or disease or susceptible to the damage of salt spray or which might eventually tend to become nuisances because of their roots growing in sewers, water mains and in other similar utilities.

**202-17. Monuments.**

Monuments shall be installed at all street intersections, at all points of change of direction or curvature of streets and at other points where, in the opinion of the Planning Board, permanent monuments are necessary. Such monuments shall conform to the standard specifications of the proper local agency and shall be set according to such specifications. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed.

**202-18. Cleanup and removal of materials.**

The developer is prohibited from leaving piles of dirt and gravel, cut vegetation, excess lumber or any other waste material resulting from the subdivision of land, including materials from related construction of any kind. Proper reduction or removal of the material or agreement to do so must be carried out as a condition of approval.

**202-19. Streetlights.**

The installation of streetlights may be required when the Planning Board deems they are necessary for the safety of the inhabitants in the neighborhood.

ARTICLE VI  
**Inspection and Testing**

**202-20. Work subject to review.**

All work performed as a consequence of these rules and regulations shall be subject to the review of the Planning Board, which shall approve and accept or disapprove and reject each phase or portion of such work and, at completion, shall recommend the acceptance of all work or disapproval of the work, with reasons therefore.

**202-21. Designation of agent.**

The Board may designate an agent for the inspection of the work to ensure compliance with these rules and regulations and to report to the Board his recommendations as to the approval or disapproval of the work. The Planning Board's agent will make certain inspections as prescribed herein in order to check the adequacy of the work at various stages prior to such work's being covered by subsequent work. However, the Board, its agent and such other persons as the Board may designate shall have the right to inspect the work at any time. Therefore, the applicant shall at all times provide safe and convenient access to all parts of the work for inspection by the Board or its authorized agents.

**202-22. Disapproved work.**

All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has been covered by subsequent work prior to acceptance or is otherwise not available or obscured to the point of rendering inspection of the work difficult shall be considered to be not acceptable to the Board. Such subsequent work shall be removed and directed by the Planning Board's agent to ensure availability of the work to be inspected as required herein. The release of the performance guaranty shall depend upon the acceptance of all work prescribed herein and on the definitive plan as directed by the Board.

**202-23. Points of inspection.**

At points as further described hereinafter, the construction of the required improvements shall be inspected by the Board's authorized agent, and unless approval of the completed work, including approval of materials used, to each such point has been given in writing, no further work shall be commenced.

**202-24. Inspection procedures.**

The Board will notify the applicant of the name and address of the agent designated as its representative to perform the inspections as required herein and otherwise act as the Board's agent to ensure compliance with these rules and regulations. The applicant shall keep the agent fully informed as to the status and progress of the work and shall notify the agent directly in writing at least twenty-four (24) hours in advance that the work has progressed to a stage that an inspection is required. In the event that the agent is unable for twenty-four (24) hours after the work is ready to make such inspection or examination, the applicant shall notify the Chairman or Clerk of the Board to such effect, who will designate an alternate to make such inspection and shall so notify the applicant.

**202-25. Additional inspections.**

If the Planning Board's agent makes an inspection of the work at the time designated and finds that such work is not at the proper state of completion or that the work has been covered or otherwise obscured, the agent shall notify the applicant and the Board as to the additional steps the applicant shall take to complete the work to the point required or to the extent the work shall be uncovered or exposed to full view. The applicant shall be liable for all costs and fees incurred by the Board as a result of requests by the applicant for an inspection of the work, which, in the opinion of the Board, was not at an acceptable stage of completion for such inspection.

**202-26. Lines and grades.**

The Planning Board's agent will advise the Board at any time during the construction if, in his opinion, he believes that the work has not been laid out to the lines and grades shown on the definitive plan.

**202-27. Order of inspections.<sup>27</sup>**

- A. First inspection. An inspection will be made of the work upon completion of all clearing, grubbing and excavation and all work incidental thereto as may be required or implied by the Board's rules and regulations or shown on the definitive plan. No fill shall have been placed at the time of this inspection.
- B. Second inspection. An inspection will be made of the completed drainage system (without backfill) as required or implied by the Board's rules and regulations or shown on the definitive plan. At the same time, or such other time as the work may be available, an inspection will be made of the completed utility installations (without backfill) as required or implied by the Board's rules and regulations or shown on the definitive plan. The inspection of the required services will be made by the agency responsible for the particular service. Backfill of any portion of the drainage system, utility installations or other services shall not be made until after receipt of notification or approval or acceptance by the Planning Board's agent or agency.
- C. Third inspection. An inspection will be made of the compacted fill required to bring the roadways to their proposed grades. The applicant shall notify the Planning Board's agent as to his source of material for fill as soon as such information is known.
- D. Fourth and fifth inspections. An inspection will be made of the binder course and of the required finish course.
- E. Sixth inspection. An inspection will be made of the topsoil, curbing and sidewalks (where required), side slopes, monuments, bounds, road signs, paths and planting of grass, trees and other vegetation.

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<sup>27</sup> Editor's Note: See inspection check-off list on file in the office of the Planning Board.



- F. Seventh inspection. A final inspection will be made by the Planning Board of all subsequent work as required herein or as shown on the definitive plan to include the final cleanup.

#### ARTICLE VII

##### **Administration**

**202-28. Variances.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

**202-29. Statutory provisions to govern.**

For matters not covered by these rules and regulations, reference is made to MGL C. 41, Sec. 81K to 81GG.

**202-30. Erection of buildings.**

No building shall be erected until the subdivision plan has been officially approved.

#### ARTICLE VIII

##### **Time Limitation**

**202-31. Deadline for completion.**

The construction of the roads and the installation of municipal services required under these rules and regulations shall be completed within two (2) years from the date of endorsement of the plan. At the discretion of the Board, an extension may be granted. Failure to so complete the construction of roads and the installation of municipal services within the specified two-year period shall be deemed by the Board to be grounds for rescission of its approval of the plan under the provision of MGL C. 41, Sec. 81W.

SUBDIVISION OF LAND  
**Steps the Subdivider Should Take**  
**Town of Edgartown**

1. The applicant secures a copy of the rules and regulations of the Planning Board and may confer informally with it.
2. The applicant submits the preliminary plan to the Planning Board for approval and notifies the Town Clerk of this action.
3. The subdivider consults with the Planning Board for recommendations preliminary to making the definitive plan.
4. The Planning Board returns the preliminary plan to the applicant with approval or recommended changes with sixty (60) days.
5. The applicant submits an original and three (3) prints of the definitive plan to the Planning Board for approval and notifies the Town Clerk of this action.
6. The applicant submits a copy of the definitive plan to the Board of Health and Town Conservation Commission when deemed necessary; within forty-five (45) days, the Board of Health and Town Conservation Commission report to the Planning Board approval or disapproval of the plan.
7. The Planning Board holds a public hearing on the definitive plan, giving notice in newspaper advertisements and by mail to abutters.
8. The Planning Board makes a decision within sixty (60) days of submission of a plan or at the end of such further time as may be agreed upon at the written request of the applicant. The Board files a certificate of its action with the Town Clerk and notifies the applicant of its action.
9. Performance guaranty.
  - (a) Final approval with bonds or surety.
  - (b) Final approval with covenant.
10. An appeal (with the Superior Court, if taken), must be filed within twenty (20) days after the Board's decision is filed with the Town Clerk.

## Chapter 205

### ZONING BOARD OF APPEALS RULES AND REGULATIONS

#### ARTICLE I

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- 205-1. Election of officers.
- 205-2. Chairperson.
- 205-3. Vice Chairperson.
- 205-4. Clerk.
- 205-5. Alternate members.
- 205-6. Quorum.
- 205-7. Meetings.

#### ARTICLE II

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- 205-8. Application forms.
- 205-9. Filing period.
- 205-10. Plan to accompany petition.
- 205-11. Fees.

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- 205-12. Notice.
- 205-13. Hearings to be public.
- 205-14. Representation; absence.
- 205-15. Order of business; questioning.
- 205-16. Filing of briefs.

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##### Disposition by Board

- 205-17. Voting requirements.
- 205-18. Withdrawal of applications.
- 205-19. Reconsideration.
- 205-20. Reapplication.
- 205-21. Time limit.

ARTICLE V  
**Policies and Advice**

**205-22. Advice not to be binding.**

ARTICLE VI  
**Amendments**

**205-23. Amendment procedure.**

**[HISTORY: Adopted by the Zoning Board of Appeals of the Town of Edgartown 10-8-69; amended 10-3-79. Subsequent amendments noted where applicable.]**

GENERAL REFERENCES

Zoning – See Ch. 175.

ARTICLE I  
**General Provisions**

**205-1. Election of officers.**

At the first regular meeting following the confirmation of the annual appointee, the Board shall elect all officers of the Board, to include a Chairperson and Vice Chairperson and Clerk. Alternates do not participate in this act.

**205-2. Chairperson.**

- A. The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these rules, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.
- B. In addition to powers granted by general laws and local ordinances and subject to these rules and further instructions of the Board, the Chairperson shall transact the official business of the Board, supervise the work of the Clerk, request necessary help, direct the work of all subordinates and exercise general supervisory power. He/she shall, at each meeting, report on all official transactions that have not otherwise come to the attention of the Board.

**205-3. Vice Chairperson.**

The Vice Chairperson shall act as Chairperson in case the Chairperson is absent, disabled or otherwise unable to perform his/her duties.

**205-4. Clerk.**

The Clerk shall be such person as may be designated by the Board. Subject to the direction of the board and its Chairperson, he/she shall supervise all of the clerical work of the Board, including all correspondence of the Board, sending of all notices required by law and rules and orders of the Board, receive and scrutinize all applications for compliance with the rules of the Board, keep

dockets and minutes of the Board's proceedings, compile all required records, maintain necessary files and indexes and call the roll at all Board meetings.

**205-5. Alternate members.**

The Chairperson of the Board shall designate an alternate member to sit on the Board in case of the absence, inability to act or conflict of interest on the part of any Board member. In the event of a vacancy on the Board, the Chairperson may designate an alternate member to act as a member of the Board until someone is appointed to fill the unexpired portion of the vacated term.

**205-6. Quorum.**

A quorum of the Board shall consist of five (5) members.

**205-7. Meetings.**

Meetings may be called as required by the Chairperson or at the request of two (2) members. Written notice thereof shall be given to each member at least forty-eight (48) hours before the time set, except that announcement of a special meeting at any meeting attended by all members shall be sufficient notice of such meeting. Notices shall be posted publicly as required by law. Said meetings shall be held in the Town Hall.

ARTICLE II

**Applications to Board**

**205-8. Application forms.**

Every application for action by the Board shall be made on the official form. These forms shall be furnished by the Clerk upon request. Any communication purporting to be an application shall be treated as mere notice of intention to seek relief until such time as it is made on the official application form. All information called for by the form shall be furnished by the applicant in the manner therein prescribed.

**205-9. Filing period.**

Every application shall be filed and every appeal taken within thirty (30) days from the date of refusal of a permit by or the date of the order, ruling decision or determination of the Building Inspector.

**205-10. Plan to accompany petition.**

- A. Each application and petition to the Board shall be accompanied by eleven (11) copies of the following described plan:
- (1) The size of the plan shall be not less than eight and one-half by eleven (8 ½ x 11) inches drawn to scale.
  - (2) It shall have a North point, names of streets, zoning districts, property lines and location of buildings on surrounding properties.

- (3) The location of buildings or use of the property where a variance or special permit is requested and distances from adjacent buildings and property lines shall be verified in the field and shown on the plan.
  - (4) The dimensions of the lot, buildings and the required parking spaces shall be shown.
  - (5) Entrances, exits, driveways, etc., that are pertinent to the granting of the variance or special permit shall be shown.
  - (6) All proposed data shall be shown in red.
- B. All plans presented shall remain a part of the records of the Board of Appeals.

**205-11. Fees.**

Applications shall be accompanied by a check of seventy-five dollars (\$75.) payable to the Town of Edgartown.

ARTICLE III  
**Hearings**

**205-12. Notice.**

Notice of hearings shall be advertised as required by the provisions of the General Laws, Chapter 40A. In addition, a copy of the advertised notice shall be sent by mail, at least fourteen (14) days prior to the date of the hearing, postage prepaid, to the applicant or petitioner, to the owners of all property deemed by the Board to be affected thereby as they appear on the most recent local tax list, to the Planning Board of every abutting town and to the Building Inspector and all those listed in the law.

**205-13. Hearings to be public.**

All hearings shall be open to the public. No person shall be excluded unless he is considered by the Chairperson to be a serious hindrance to the workings of the Board.

**205-14. Representation; absence.**

An applicant may appear in his/her own behalf or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it has otherwise received.

**205-15. Order of business; questioning.**

- A. The order of business shall be as follows:
  - (1) Reading of petition and legal notices by the Clerk, together with presentation of exhibits, if any.
  - (2) Applicant's presentation.
  - (3) Opponents' presentation, if any, and questions by those seeking information.
  - (4) Applicant's rebuttal, restricted to matters raised by opponent's presentation.
- B. Members of the Board who are hearing the case may direct appropriate questions during the hearing.

**205-16. Filing of briefs.**

- A. It is recommended that every appeal and every application for a variance or special permit be supported by a brief setting forth in detail all facts relied upon by the parties. This is particularly desirable in the case of a variance when the following points, based on MGL C. 40, Sec. 10, should be clearly identified and factually supported:
  - (1) The particular use proposed for the land or building.
  - (2) The conditions especially affecting the property for which a variance is sought.
  - (3) Facts which make up the hardship.
  - (4) Facts relied upon to support a finding that the relief sought will be desirable and without substantial detriment to the public good.
  - (5) Facts relied upon to support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.<sup>28</sup>
- B. Briefs may be filed at the public hearing or within such time thereafter as may be fixed by the Board, but in no case later than five (5) days after the public hearing.
- C. A detailed record of proceedings, including the vote on each question, must be filed with the Town Clerk within fourteen (14) days of the decision.

ARTICLE IV

**Disposition by Board**

**205-17. Voting requirements.**

- A. The concurring vote of at least four (4) members of the Board shall be necessary in any action taken by the Board.
- B. The record shall show the vote of each member upon each question or, if absent or failing to vote, shall indicate such fact. It shall, in addition, set forth clearly the reason or reasons for its decisions.

**205-18. Withdrawal of applications.**

An application may be withdrawn by notice in writing to the Clerk at any time prior to the hearing by the Board. After an advertisement, withdrawal shall be only by Board approval.

**205-19. Reconsideration.**

Once a petition has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board.

**205-20. Reapplication.**

In order to have a petition reheard within two (2) years, the petitioner must request permission from the Planning Board and the permit granting authority, showing new evidence that substantially alters the conditions of the petition. At least four (4) members of the Planning Board

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<sup>28</sup> Editor's Note: See Ch. 175, Zoning.

must agree that this condition has been met. Once the Boards agree, the petitioner must reapply to the Board of Appeals in the normal manner.

**205-21. Time limit.**

- A. If an application is granted by the Board, all permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within one (1) year from the date of filing of the Board's decision in the office of the Town Clerk,
- B. Reasonable extension of said time may be granted by the Board in the case of an appeal to the Superior Court under MGL C. 40A, Sec. 21, or for any good cause shown.

ARTICLE V

**Policies and Advice**

**205-22. Advice not to be binding.**

Any advice, opinion or information given by any Board member or the Clerk or any other official or employee of the Town of Edgartown shall not be binding on the Board. Because of the annoyance caused by individuals appealing personally to members of the Board, it is declared to be the policy of the Board to discourage any such personal appeals.

ARTICLE VI

**Amendments**

**205-23. Amendment procedure.**

These rules may be amended by an affirmative vote of not less than four (4) members of the Board, provided that such amendment shall be presented in writing at a regular meeting of said Board.



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