TOWN OF EDGARTOWN
PLANNING BOARD

70 MAIN STREET, P.O. BOX 1065
EDGARTOWN, MASSACHUSETTS 02539-5158

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ARTICLE XIV.4 OVERLAY DISTRICTS
(Cape Pogue)

14.4 Cape Pogue District

1. Goals
   To prevent damage to structures, land and water as a result of erosion, 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 fisher industries, to maintain and enhance the fishing economy and promote and protect wildlife habitats.
2. Area of the District
   All of the land and waters, bordered by mead 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 mead 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 water 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' Ma); thence in a southwesterly direction along the eastern bounds of Washque Avenue (as shown on Edgartown Tax Assessors' Map 47, 48, and 50) to the mean high water line of Katama Bay, then is a southerly and easterly direction along said mean high water line of 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.

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ARTICLE XIV.4 OVERLAY DISTRICTS (Cape Pogue continued)

3. Permitted Uses
Use regulations elsewhere in this By-law notwithstanding, only the following uses are permitted. Any structures associated with these uses and any other development or uses would require a Special Permit under Section 14.4.4.
   a. Fishing and shellfishing, including aquaculture
   b. Forestry, grazing, and farming 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 recreation activities including swimming, boating, nature study
   e. Hunting, trapping, and duckblinds
   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. Repair and alterations to an existing structure, which work does not expand the existing footprint of the structure.

4. Uses Requiring a Special Permit
Except as permitted under Section 14.4.3, 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, out-buildings, boathouses, piers, recreational amenities, fences and walls. The Planning Board shall be the Special Permit Granting Authority.

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 post construction 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 plans or animals and their habitats;
   (d) vegetative cover serving to stabilize land forms;
   (e) views within and looking at the site
   (f) surface and groundwater resources, in particular any adverse effects, e.g. contamination, siltation, eutrophication, and salt water intrusion. Plans shall be on a 1"=40' Scale unless the Planning Board authorizes a different scale, and shall be prepared by a registered land surveyor or registered professional engineer. 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 entity to submit written

ARTICLE XIV.4 OVERLAY DISTRICTS (Cape Pogue continued)

recommendations to the Planning Board within 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. The Planning Board shall grant a Special Permit only after public notice and hearing in accordance with Section 11 of the Zoning Act, M.G.L. Chapter 40A, 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 on or 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 groundwater pollution, in particular, contamination, siltation, eutrophication, and salt water intrusion.

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.

5. Prohibited Uses
   a. The use of herbicides, pesticides, fungicides, and chemical fertilizers outside of dwellings if 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.
   b. More than one dwelling per lot is prohibited.
   c. Non-municipal piers.
6. 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.

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a. Membership shall include one representative from each of the following organizations, appointed by that organization:
- Edgartown Conservation Commission
- Edgartown Board of Health
- Mass. Department of Environmental Management
- Mass. Department of Fisheries, Wildlife, and Environmental Law Enforcement
- The Trustees of Reservations Membership
- The Trustees of Reservations Staff
- County of Dukes County
- Martha's Vineyard Commission
- Cape Pogue Property Owner (appointed by the Chappaquiddick Island Association)
- Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation)

b. Responsibility of the committee shall be to:
- maintain records of property management plans
- - encourage implementation of management recommendations in the District Guidelines
- develop and propose amended District Guidelines
- - review each application for a Special Permit for consistency with management plans and the District Guidelines and advise the Planning Board.