THE PLANNING BOARD
THE TOWN OF EDGARTOWN, MASSASCHUSETTS
RULES AND REGULATIONS FOR ISSUANCE OF SPECIAL PERMITS

Adopted August 1, 2006
Amended_____, 2010

ARTICLE I – ORGANIZATION

Section 1 – Members and Officers

The Planning Board shall consist of five (5) regular members and one (1) associate member elected or appointed as determined by an Annual Town Meeting. Regular members shall elect annually a chairman from its' own number. Vacancies shall be filled for unexpired terms by joint appointment by the Board of Selectmen and the Planning Board. The Board may, subject to appropriation, employ experts, clerical and other assistants. It may appoint a custodian of its plans and records who may be the Town Clerk.

Section 2 – Chairman: Powers and Duties

The Chairman shall vote and be recorded on all matters coming before the Board. Subject to these rules s/he shall decide all points of order, unless overruled by a majority of the Board in session at the time. S/he shall appoint such committees as may be found necessary or desirable. In addition to the powers granted by the Massachusetts General Laws and the Town of Edgartown's Zoning Bylaws, the Subdivision Rules and Regulations for the Town of Edgartown, and subject to these rules and further instruction of the Board, the chairman shall transact the official business of the Board, supervise the work of the Assistant or Clerk, request necessary help, direct the general work of the Board, and exercise general supervisory power. S/he shall at each meeting may ask the Assistant or Clerk to report the official transactions that have not otherwise come to the attention of the Board.

Section 3 – Acting Chairman: Powers and Duties

In the event the chairman is absent, disabled or otherwise unable to perform her/his duties, the Board may, by majority vote, elect a regular member to serve as acting Chairman.

Section 4 – Assistant or Clerk: Powers and Duties

The Assistant shall supervise all of the clerical work of the Board including all correspondence, send and/or file all notices required by law, prepare 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 all necessary files and indices and record the roll at all Board meetings. If the Assistant or Clerk is absent, the Chairman shall appoint and acting Assistant or Clerk.

Section 5 – Associate Member

In accordance with Section 17.7 of the zoning bylaws, the Planning Board shall have an Associate Member to sit on the Board for the purpose of acting on a special permit application in case of the absence, inability to act or conflict of interest on the part of any Board member.

Section 6 – Quorum

A quorum for a special permit application shall consist of at least four members of the Board including, if needed, the Associate Member. If only four members of the Board are available to hear the application, the Board shall ask the applicant if they would prefer to continue the hearing and be heard at a later meeting when all five Board members are available.

Section 7 – Regular Meetings

Regular meetings of the Board shall be held on the 1st and 3rd Tuesday of every month at the Town Hall. If a regular meeting day falls on a holiday or any day of a national, state or municipal election, caucus or primary or is in conflict with a session of Town Meeting, the meeting may be held on an alternate date. Regular meetings shall be open to the public pursuant to MGL Chapter 39 Section 23 A – C. Except in an emergency, a notice of each Board meeting shall be filed with the Town Clerk, and a notice or copy thereof shall be publicly posted in the office of the Town Clerk or on the Town Bulletin Board in the Town Hall at least forty-eight (48) hours, including Saturdays, but not Sundays and legal holidays, prior to such meetings.

Business at such meetings shall include site and other plan examinations and all other matters in the province of the Board including applications for special permits. Public hearings on applications before the Board may be held prior to or following the regular meeting, as designated by the Chairman. Regular meetings, while open to the public, are not public hearings. The Board will seek information or testimony as it deems necessary. Unsolicited comments from the public may, at the discretion of the Chairman, be ruled out of order.

Site plans which come to the Board may be sent to various town departments or advisory committees for an opinion or as required by the zoning bylaws of the Town.

Section 8 – Special Meetings

Special meetings may be called by the Chairman, or at the request of a quorum of the Board. Written notice thereof shall be given to each member and associate member at least forty-eight (48) hours before the time set, except that an announcement of a special

meeting at any meeting attended by all members shall be sufficient notice of such meetings. Notices shall be posted publicly as required by Section 7 above.

Section 9 – Site Visits

The Board may decide to conduct a site visit of the property which is the subject of a special permit application. Applicants should be prepared to meet with the Board at the site before the public hearing or at any later date to be determined by the Board and announced to the applicant.

ARTICLE II – APPLICATIONS TO THE BOARD

Section 1 - APPLICATION FORM

Every application for action by the Edgartown Planning Board, including applications for special permits shall be made on the official form furnished by the Planning Board staff upon request. Any communication purporting to be an application shall be treated as only notice of intention to seek a special permit. No application shall be deemed to have been filed until such time as it is made on the official application form. All information requested on the form shall be furnished by the applicant in the manner therein prescribed.

Section 2 – APPLICANT

The applicant must be the owner(s) of record of the property on which the special permit is sought or the owner's heirs, agents, or assigns. If the applicant is not the owner, then the application must include authorization to apply as heirs, agents, or assigns.

Section 3 - PLAN OF LAND TO ACCOMPANY APPLICATION

Six (6) copies of the following described plan shall accompany each application:
The size of the plan shall be not less than 8 1/2" X 11" drawn to scale. One full-size plan must be submitted and five copies of the plan no larger than 11" x 17" shall be submitted. The plan shall have a north point, a locus, names of streets, zoning districts, property lines, abutters' names with their assessors' parcels, and location of buildings on surrounding properties. The location of buildings and use of the property on which the special permit is requested and distances from adjacent buildings and property lines shall be verified in the field and shown on the plan. If any of the property is within a District of Critical Planning Concern (DCPC), delineation of that DCPC shall be shown. The dimensions of the property (lot), dimensions of all buildings on it, and required parking spaces shall be shown. Entrances, exits, driveways, outdoor lighting and landscaping that are pertinent to the granting of the special permit shall be shown. Elevations of all proposed structures (e.g. buildings, walkways, piers, pools, tennis courts) shall be shown. The plan may be in one or more pages as necessary to show all required information. All plans presented shall remain a part of the records of the Planning Board.

Section 4 - BRIEF TO THE BOARD

It is recommended of every application for a special permit be supported by a brief setting forth in detail all facts relied upon by the parties. The following points may be helpful in

providing additional information to the Board.

a. The particular use proposed for the land or building.

b. The conditions especially affecting the property for which the special permit is sought.

c. Facts relied upon to support a finding that the special permit sought will be desirable and without substantial detriment to the public good.

d. Facts relied upon to support a finding that the special permit may be given in keeping with the intent, purpose, and particular criteria of the section of the Edgartown Zoning Bylaw under which the special permit is sought. 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.

e. Photographs of the site, of the existing structures, and the proposed structures, and of the surrounding sites if appropriate.

Section 5 - FEES

a. Application Fees

Applications shall be accompanied by a check payable to the Town of Edgartown as follows:

Special Permit, Commercial	$275.00
Special Permit, Residential	$175.00
Special Permit Planned Unit Development	$200.00
plus each additional unit	$50.00
Special Permit Modification	$150.00
Cost of advertising the notice of public hearing	Unknown*

*To be billed directly to applicant by the newspaper.

b. Escrow Account

An escrow account to complete the approved project may be requested in the event the applicant has not complied with the decision rendered.

c. Consultants' Fees

1) The Board may impose reasonable fees on applicants which will be used for the employment of outside consultants to assist the Board with review of the application.

2) These fees will be deposited in a special account established by the Town Treasurer and shall be kept separate and apart from other monies.

3) This account, including accrued interest, if any, shall be expended by the Board without further appropriation and only in connection with the carrying out of the Board's responsibilities under the law.

4) Any excess amount in the account, including any interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest.

5) The Town Accountant shall submit an annual report on this special account to the Planning Board.

6) Applicants may appeal the selection of the consultant to the Board of Selectmen.

7) Grounds for any such appeal shall be limited to claims that the consultant has a conflict of interest or does not meet the minimum required qualifications.

8) Consultants' minimum qualifications shall be either an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field.

Section 7 – FILING THE APPLICATION

Each application shall be first filed by the applicant with the Edgartown Town Clerk. The applicant shall then file a copy of that application, including the date and time of filing certified by the Town Clerk, with the Building Inspector and the Planning Board. The date of receipt as indicated by the Town Clerk shall be considered to be the date on which the application has been filed with the Board. It shall be the responsibility of the applicant to furnish all supporting documentation with the application.

ARTICLE III - HEARINGS

Section 1 - 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 14 days prior to the date of the hearing, postage prepaid, to the applicant or petitioner, to the owners of all property (including the applicant's abutters, and abutters to abutters within 300 feet) deemed by the Board to be affected thereby as they appear on the most recent local tax list, to the Board of Selectmen, the Zoning Board of Appeals, the Building and Zoning Inspector, other Town Departments as appropriate, and all those listed in the law.

Section 2 - 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.

Section 3 - REPRESENTATION AND ABSENCE

An applicant is encouraged to appear in his/her own behalf, but may be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of the applicant, the Board may decide on the matter using the information it has otherwise received.

Section 4 - ORDER OF BUSINESS

a. A sign-up sheet should be circulated for proponents, opponents, and general public.

b. Chairman shall call the hearing to order and describe the rules of procedure for the hearing.

c. Chairman or Clerk shall read the Petition and legal notices.

d. Applicant shall present their application, together with exhibits, if any.

e. Letters and reports from Town Boards and Departments, if any.

f. Letters and emails pro and con, if any.

g. Appropriate questions from the Board.

h. Opponents' presentation, if any, and questions by those seeking information.

i. Applicant's rebuttal, restricted to matters raised by opponents' presentation.

j. Appropriate questions from the public shall be addressed through the Chairman.

k. Chairman closes public hearing & opens public meeting for the Board to hold deliberations to vote.

If the Board determines that the public hearing needs to be continued to another time and/or date they shall vote by majority to do so and state the intention of the Board to continue the public hearing to a specific time, date and place.

The required time limits for the holding of a public hearing and rendering a decision may be extended by written agreement between the Board and the applicant(s). A copy of the agreement shall be filed with the Town Clerk.

ARTICLE IV - DISPOSITION BY THE BOARD

Section 1 - VOTING REQUIREMENT

The concurring vote of at least four (4) members of the Board shall be required for the Board to approve and issue a special permit.

The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. It shall, in addition, set forth clearly the reason or reasons for its decisions.

Section 2 – FINAL ACTION BY THE BOARD

The Planning Board shall take final action within 90 days following the public hearing. This time may be extended by written agreement between the applicant and the Board, with a copy of that agreement filed with the Town Clerk. Final action shall be when the decision of

the Board is filed by the Board with the Town Clerk. The Board shall make a record of its proceedings, indicating the vote of each member on each question and setting forth the reason for the Board's decision, and shall file a copy of the proceedings with the Town Clerk within 14 days of the vote of the Board.

Section 3 - WITHDRAWAL

An application may be withdrawn without prejudice by notice in writing to the Board at any time prior to the publication of the notice of public hearing. After public hearing, the application may be withdrawn without prejudice only with the approval of the Board.

Section 4 - RECONSIDERATION

Once an application has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board, unless remanded by the Court.

Section 5 – REAPPLICATION

In order to have an application which was unfavorably and finally acted upon by the Board reheard within two (2) years, the applicant must request permission from the Planning Board, showing new evidence that substantially alters the conditions on which the unfavorable action was based. At least four (4) members of the Planning Board must agree that this condition has been met. Once the Board agrees the applicant must reapply to the Planning Board in a normal manner.

Section 6 – ONE-YEAR LIMITATION ON GRANTS: EXTENSIONS

If an application is granted by the Board all permits necessary for the prosecution of the work shall be obtained and construction shall commence within one year from the date of filing of the Board's decision in the Office of the Town Clerk.

Reasonable extension of said time may be granted by the Board in the case of an appeal to the Superior Court under General Laws, Chapter 40A, Section 21, or for any good cause shown.

ARTICLE V - POLICIES

Section 1 – Opinions and Advice

Any advice, opinion, or information given by any Board member or the Board's staff, 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.

Section 2 – Waiver

The Board shall have the authority to alter or waive the requirements in Article II Section 3 as it deems necessary or appropriate in particular cases.

Section 3 – Amendments

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 the Board.

ARTICLE VI – ADOPTION

The foregoing Rules and Regulations for Issuance of Special Permits are hereby adopted this ____ day of _____ 2010 by the Edgartown Planning Board. All former Rules and Regulations for Issuance of Special Permits are hereby repealed.

Date: _____

I hereby certify that no appeals have been filed in the twenty- (20) day period following the date of filing this document.

Attest: _____
Wanda M. Williams, Town Clerk
Karen R. Medeiros, Assistant Town Clerk

_____
Fred Mascolo, Chairman

_____
Robert M. Cavallo

_____
Michael J. McCourt

_____
Robert Sparks

_____
Alan O. Wilson

Edgartown Planning Board