Edgartown Zoning Bylaw

As Amended April 14, 2026

Table Of Contents[1]

Article I - General Provisions 1
1.1 Title. 1
1.2 Purpose 1
1.3 Definitions 1
1.4 Enumeration of zoning districts. 8
Article II - Residential Districts 9
2.1 R-60 Residential District 9
2.1.A Permitted Uses 9
2.1.B Conditionally Permitted Uses 10
2.1.C Accessory Uses and Structures Permitted 11
2.1.D Bulk, Area and Parking Requirements 11
2.1.E Prohibited Uses 11
2.2. R-20 Residential District 11
2.2.A Permitted Uses 11
2.2.B Conditionally Permitted Uses 12
2.2.C Accessory Uses Permitted 12
2.2.D. Bulk, Area and Parking Requirements 12
2.2.E Prohibited Uses 13
2.3. R-5 Residential District. 13
2.3.A Permitted Uses 13
2.3.B Conditionally Permitted Uses 13
2.3.C Accessory Uses Permitted 14
2.3.D Bulk, Area and Parking Requirements 14
2.4. R-120 Residential District. 14
2.4.A Permitted Uses 14
2.4.B Conditionally Permitted Uses 14
2.4.C Accessory Uses 15
2.4.D Bulk, Area and Parking Requirements 15
2.4.E Height of Structures 15
2.4.F Prohibited Uses 15
2.5. RA-120 Residential District 15
2.5.A Permitted Uses 15
2.5.B Conditionally Permitted Uses 15
2.5.C Accessory Uses 15
2.5.D Bulk, Area and Parking Requirements 15
2.5.E Prohibited Uses 16
Article III, Business Districts 17
3.1. B-I Business District 17
3.1.A Permitted Uses 17
3.1.B Conditionally Permitted Uses 17
3.1.C Prohibited Uses 17
3.1.D Bulk, Area and Parking Requirements 17
3.1.E Special Permit Considerations 19
3.2. B-II Upper Main Street District 19
3.2.A Permitted Uses 19
3.2.B Uses Permitted by Special Permit from the Planning Board. 20
3.2.C Prohibited Uses 21
3.2.D Special Permit Procedures 21
3.2.E Conditions 22

[1] Renumbering and reorganization of bylaw approved by ATM, 2018, Article #64. See Recodification Cross-reference, Pages A-G.

3.2.F Expansion, Alteration, or Change of Nonconforming Structures and Uses 24
3.2.G Decision 24
3.3. B-III Light Industrial and Service District 25
3.3.A. Area: 25
3.3.B. Purpose: 25
3.3.C Permitted Uses 25
3.3.D Conditionally Permitted Uses 26
3.3.E Bulk, Dimensional, and Site Requirements 26
3.4. B-IV Trades District 27
3.4.A. Area: 27
3.4.B. Purpose: 27
3.4.C Permitted Uses 27
3.4.D Conditionally Permitted Uses 27
3.4.E Bulk, Dimensional, and Site Requirements 27

Article IV, Planned Development District 29
4.1. Purpose 29
4.2. Special Permit Granting Authority 29
4.3. Permitted Uses in PDD District 29
4.4. Uses Permissible by Special Permit 29
4.4.A. Subdistrict R - RESIDENTIAL 29
4.5. Procedures 30
4.5.A. Pre-application conference. 30
4.5.B. Submission of preliminary PDD plan 30
4.5.C. Submission of Definitive PDD Plan 30
4.6. Performance Guarantee 31
4.7. Criteria for Review 32
4.8. Design Criteria 32
4.9. Relation to Subdivision Control Act. 32

Article V, Districts of Critical Planning Concern (DCPC) Overlay Districts 33
5.1. Coastal District 33
5.1.A. Area of District 33
5.1.B. Establishment of Zones in the Coastal District 33
5.1.C. Permitted Uses 33
5.1.D. Conditionally Permitted Uses 34
5.1.E Development Regulations 34
5.2. Island Road District. 35
5.2.A. Major Roads 35
5.2.B. Special Ways 36
5.3. Special Places District. 42
5.3.A. Area 42
5.3.B. Regulations and Restrictions 42
5.4. Cape Pogue District. 42
5.4.A. Goals 42
5.4.B. Area of the District 42
5.4.C. Permitted Uses 42
5.4.D. Uses Requiring a Special Permit 43
5.4.E. Prohibited Uses 44
5.4.F. Cape Pogue DCPC Advisory Committee 44
5.4.G Enforcement 45
5.5. Katama Airfield and Conservation Area District. 45
5.5A. Purpose 45
5.5.B. Area of the District 46
5.5.C. Permitted Uses 46
5.5.D. Uses Requiring a Special Permit 46
5.5.E. Prohibited Uses 46

5.5.F. Procedures for Permitted Uses *47*
5.5.G. Procedures for Special Permits *47*
5.5.H. Criteria for Review *47*
5.5.I. Site Review Committee *48*
5.5.J. Airfield Approach Zone *48*
5.6. Edgartown Ponds Area District. 51
5.6.A. Purpose *51*
5.6.B. Areas of the District *51*
5.6.C. Establishment of Zones *51*
5.6.D. Definitions *51*
5.6.E. Consistency with Other Regulations *52*
5.6.F. Permitted Uses and Structures *52*
5.6.G. Uses and Structures Requiring a Special Permit *53*
5.6.H. Prohibited Uses *53*

Article VI, Surface Water District 55
6.1. Purpose 55
6.2. Applicability 55
6.3. Permitted Uses 55
6.4 Special Permitted Uses 55
6.5. {removed} 56

Article VII – Floodplain Overlay District 57
7.1 Purpose 57
7.2 Establishment of the District 57
7.3 Abrogation and greater restriction section 57
7.4 Disclaimer of liability 57
7.5 Severability section 57
7.6 Designation of community Floodplain Administrator 57
7.7 Requirement to submit new technical data 57
7.8 Variances to building code floodplain standards 58
7.9 Variances to Zoning Bylaws Related to Community Compliance with NFIP 58
7.10 Permits Required for All Proposed Development in Floodplain Overlay District 58
7.11 Permitted and Prohibited uses 59
7.12 Base flood elevation data for subdivision proposals 60
7.13 Unnumbered A Zones 60
7.14 Watercourse alterations or relocations in riverine areas 60
7.15. Recreational vehicles 61
7.16 Local Enforcement 61
7.17 Definitions 61

Article VIII, Beach Area and Wetlands Regulations 64
8.1 Purpose and Definitions 64
8.2 Special Permit Required 64
8.3 Duties of Planning Board and Conservation Commission. 64
8.4 Beach Area Regulations. 64
8.4.A Permitted Uses. *64*
8.4.B. Conditionally Permitted Uses. *65*
8.4.C. Prohibited activities. *65*

Article IX, Cluster Developments 66
9.1. Purpose. 66
9.2. Special permit. 66
9.3. Number of dwelling units. 66
9.4. Additional restrictions. 67
9.5. Preparation of application. 67
9.6. Plans and information to be submitted. 67

9.7. Guidelines for approval. 67
9.8. Issuance of special permit. 68

Article X, General Regulations 69

10.1. Lots and Structures 69
10.1.A. Subdivision of lots. *69*
10.1.B. Principal buildings on same lot. *69*
10.1.C. Height of buildings; elevated decks and porches. *70*
10.1.D. Corner clearances. *70*
10.1.E. Curb cuts and driveways. *70*
10.1.F. Conversion of existing structures. *70*
10.1.G. Nonconforming structures and uses. *71*
10.1.H. Temporary structures and uses. *72*
10.1.I. Demolition delay. *72*
10.1.J Common Driveways *74*
10.1.K Tree Yard Protection and Clear Cutting Regulation *74*
10.1.L Reserved. *76*
10.1.M Residential Lot Intensity *76*
10.2. Uses 78
10.2.A. Conditionally permitted uses. *78*
10.2.B. Mobile homes and recreational vehicles. *79*
10.2.C. Unregistered cars. *79*
10.2.D. Accessory scientific uses. *79*
10.2.E. Eating establishments. *79*
10.2.F. Conversion of transient residential facilities. *79*
10.2.G. General development regulations. *79*
10.2.H. Trash. *80*
10.3. Housing 80
10.3.A. Multi-unit dwellings *80*
10.3.B. Assisted housing. *81*
10.3.C. Island independent living. *83*
10.3.D. Accessory apartments. *85*
10.3.E. Substandard lots as affordable home sites. *87*
10.3.F. Staff Housing *88*
10.3.G Fractional Ownership, Interval and Time Share Units *90*
10.3.H Mixed Use Buildings *91*
10.3.I Protected Use Accessory Dwelling Units (ADUs) *92*
10.4. Health 94
10.4.A - Adult Use Marijuana Establishments *94*

Article XI, Sign Regulations 102

11.1. Purpose. 102
11.2. Definitions. 102
11.2.A. Sign. *102*
11.2.B. Accessory Signs. *102*
11.2.C. Non-accessory Sign. *102*
11.2.D. Person *102*
11.2.E. Standing Sign. *102*
11.2.F. Sign, Area of, ... *102*
11.2.G. Temporary Sign. *102*
11.3. Administration and Enforcement. 102
11.3.A. Enforcement. *102*
11.3.B. Administration. *103*
11.3.C. Permits. *103*
11.4. General requirements. 103
11.4.A. Character. *103*
11.4.B. Movement. *103*

11.4.C. Illumination. *103*
11.4.D. Window Signs. *103*
11.4.E. Temporary Signs. *104*
11.4.F. Outdoor merchandise: *104*
11.4.G. Permitting of Existing Vending Machines *104*
11.4.H. No Trespassing Signs *104*
11.4.I. Political Signs. *104*
11.5. Requirements for non-accessory signs. 104
11.6. Requirements for accessory signs. 104
11.6.A. Residence Districts. *104*
11.6.B. Business Districts. *105*
11.7. Nonconformance of accessory signs. 105
11.8. Requirements for signs in historic districts. 105
11.8.A. Illumination: *106*
11.8.B. Character: *106*
11.8.C. Wall Sign: *106*
11.8.D. Number of Signs: *106*
11.8.E. Architectural Features: *106*
11.8.F. Guidelines for Review of Application: *106*

Article XII, Public Utilities 107
12.1. Purpose. 107
12.2. Grant of special permit. 107
12.3. Application for special permit. 107
12.4. Criteria for special permit consideration. 107
12.5. Site plan review. 108

Article XIII, Personal Wireless Service Facilities 109
13.1. Definitions. 109
13.2. Purpose. 109
13.3. Special permit required. 109
13.4. Criteria for special permit. 109
13.5. Application. 110
13.6. Prohibited installations. 110

Article XIV, Energy Systems (ECS) 111
14.1. Wind Energy Conversion Systems (WECS) 111
14.1.A. Special permit required; definitions. *111*
14.1.B Setback requirements. *111*
14.1.C Tower access. *111*
14.1.D Public good. *111*
14.1.E Maintenance. *111*
14.1.F Permits and approvals required. *111*
14.2 Solar Photovoltaic Installations 112
14.2.A Definitions *112*
14.2.B Roof-mounted Solar Photovoltaic Installation (RSPI) *112*
14.2.C Ground-mounted Solar Photovoltaic Installations (GSPI) *112*
14.2.D Site Review for Solar Photovoltaic Installations *112*

Article XV - Senior Residential Developments 114
15.1 Purposes. 114
15.2 Applicability. 114
15.3 Uses. 114
15.4 Basic Requirements. 115
15.5 Age-Appropriate Design. 115
15.6 Development Standards. 116
15.7 Procedures. 116

15.8 Decision. 117
Article XVI (Reserved) 118
Article XVII, Administration and Enforcement 119
17.1. Conformance Permit and fencing required. 119
17.1.A. Building Permit Required *119*
17.1.B. Residential Construction Fencing *119*
17.2. Enforcement. 119
17.3. Violations and penalties. 119
17.4. Board of Appeals. 119
17.5. Planning Board. 120
17.5.A. Establishment *120*
17.5.B. Power *120*
17.5.C. Procedure *120*
17.6 Planning Board Associate Member 120
17.7. Special permits. 120
17.8. Amendments. 121
17.9. Severability. 121
17.10. When effective. 121
17.11. Building permit limitation. 121
Recodification of Bylaws – Approved at 2018 Annual Town Meeting A
Reference In Order Of Current Article Numbers A
Reference In Order Of Previous Article Numbers E

Article I - General Provisions

1.1 Title.

This Bylaw shall be known and referred to as THE TOWN OF EDGARTOWN, MASSACHUSETTS ZONING BYLAW.

1.2 Purpose[2]

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 40A and all sections incorporated therein as amended by Chapter 808 of the Acts of 1975.

1.3 Definitions[3]

Accessory Structure [4] a structure that is customarily incidental and subordinate to a principal structure on a lot.

Accessory Use [5] A use that is customarily incidental and subordinate to a principal use on a lot.

Alteration Any change in size, shape, character, or use of a building or structure.

Assisted Living Residence [6] A long-term senior residential facility that provides personal care support services such as meals, medication management, bathing, dressing, and transportation, principally for people age 55 years and over, and certified by the Massachusetts Office of Elder Affairs.

Bedroom Attached room, reasonably capable of providing privacy, light, and ventilation which is intended, arranged, or designed to be occupied by one or more persons. A bedroom shall have an area of not less than 70 square feet or be less than 7 feet in any dimension.[7]

Bulk is the term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another.

Caliper Diameter of a tree trunk (in inches). For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree.

Center Lot Area The area of a lot which is not included in the Tree Yard.[8]

Certified Arborist A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

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[2] "Purpose" adopted 1966: Town Meeting, Article 9, section 1;
Amended 1969: ATM, Article 7 Section 1;
Amended 1973: Article 8(1): Removed word "morals" and generally reworded;
Amended 1978: Section 1.2 reworded from 1973 version to 2009 version, except "of the inhabitants" was not yet part of 1.2 in 1978.

[3] Adopted 1966: Article 9, Section 9;
Amended 1969: ATM, Article 7, Section 15;
Amended 1971: Town Meeting, Section 15;
Amended 1973, Article 8 (II)

[4] Adopted 2021, ATM, Article #74

[5] Ibid.

[6] Adopted 2021, ATM, Article #81

[7] Added, ATM, 2018, Article #59

[8] Adopted 2025, ATM, Article #80

Clear Cutting Any removal of trees having a DBH of four (4) inches or greater resulting in the removal of 70% or more of such trees, cumulatively, from the Center Lot Area over a period of 24 months or less.[9]

Continuing Care Retirement Facility [10] A structure designed to support and facilitate a continuum of senior housing and care services principally for people age 55 years and over, operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for senior citizens.

Convenience store [11] 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 alcoholic beverages, household and gas station items, pharmaceuticals and personal hygiene items, newspaper, maps and tobacco.

Cottage Dwelling [12] A detached one-family dwelling that does not exceed 1,400 sq. ft. of Gross Floor Area.[13]

Curb Cuts The providing of vehicular access from a private property to an accepted public way.[14]

De Minimis minor works which may have little to no material effect on a given structure or development, and therefore would not require a special permit, but does require an application for an exemption. Such determination would not apply to application or permitting requirements established by other entities, such as the Conservation Commission, Historic District Commission, the Town of Edgartown Building Department, or the MV Commission.[15]

Demolition The removal or dismantling of an existing structure, in whole or in part, with or without the intent to replace the construction so affected.[16]

Detached bedroom [17] [18] In any district in Edgartown, a detached bedroom is defined as either a freestanding structure or over or otherwise attached to a non-habitable accessory structure and all of the following:

a. only one bedroom and bathroom(s) only
b. no sitting rooms, no entrance alcoves, no hallways
c. the footprint is no larger than 400 sq ft of Gross Floor Area[19]
d. plumbing in the bathroom only and limited to one hand sink, one toilet, and one bathtub/shower
e. no stove or refrigerator

[9] Adopted 2025, ATM, Article #80
[10] Adopted 2021, ATM, Article #81
[11] Adopted, 2000.
[12] Adopted 2021, ATM, Article #81
[13] Amended, 2026 ATM: Article #70
[14] Ibid.
[15] Ibid.
[16] Ibid.
[17] Adopted, 2002.
[18] Amended 04/2024, ATM, Article #97.
[19] Amended, 2026 ATM: Article #70

Development [20]	shall include 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 intensity of 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 offsite 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.
Diameter at Breast Height (DBH)	The diameter of a tree trunk four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.
Dwelling	is 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.[21]
Dwelling, Townhouse Or Single-Family Attached [22]	A residential building of at least three but not more than eight single-family dwelling units sharing at least one common or party or fire wall, and with each building having at least one floor at ground level with a separate entrance.
Dwelling, Two-Family [23]	A detached residential building designed or intended or used exclusively as the residence of two families. A two-family dwelling shall not include a detached single-family dwelling with an accessory apartment.
Dwelling, Multifamily [24]	A building designed or intended or used as the residence of three or more families, each occupying a separate dwelling unit and living independently of each other, and who may have a common right in halls and stairways; with the number of families in residence not exceeding the number of dwelling units provided.
Dwelling Unit	is a portion of a building used or to be used as a habitable unit for one family or household with facilities for sleeping, cooking, bathing and sanitation.
Farm Silo [25]	is a structure used for storing feed for livestock.
Fast Food Restaurant [26]	is an establishment for the sale of on-premise 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.
Fence	A non-living structure or partition, designed to: establish a boundary; enclose or separate an area of land, a landscape feature, or an object located on land; prevent intrusions from without or straying from within; provide security or protection; shield from within or without against noise or view; or, other similar purpose. A fence may be, but is not limited to, structures or partitions made of wood, stone, metal or other materials.[27]
Fence, Boundary (Boundary Fence)	Any fence that is, or is intended to be, installed on or within five (5) feet of a real property boundary line determined by the Board of Fence Viewers of the Town of Edgartown."[28]

[20] Adopted 1984.
[21] Phrase "or a vessel" added in 1987
[22] Adopted 2021, ATM, Article #81.
[23] Ibid.
[24] Ibid.
[25] Adopted 1980.
[26] Adopted 1979.
[27] Added, ATM, 2018, Article #59
[28] Ibid.

Fractional Ownership, Interval and Time Share Units	The purpose of this section is to preserve and protect housing stock in the Town from the market pressures attendant to fractional ownership, imterval and time share uses and to protect neighborhoods from impacts of such uses
Floor Area Ratio (FAR)	is calculated as the gross square footage of all floors in all buildings, divided by the square footage of the property
Front Lot Line [29]	The lot line that abuts a street and contains the principal entrance to the property.
Frontage [30]	The portion of the front lot line directly abutting the street.
Gross Floor Area	The sum of the areas of all stories of a building, as measured from the interior face of exterior walls, or from the center line of walls separating two buildings on the same lot. Gross Floor Area for a single lot shall include basements connected by an interior stair, lofts, and intermediate floored tiers, but shall exclude crawl spaces, garage parking areas, attics, enclosed porches and similar spaces.[31]
Guest House	is a subordinate dwelling to the principal dwelling on a lot that is not a Protected Use ADU.[32]
Independent Living Units [33]	Multifamily buildings in a Senior Residential Development that are designed and intended for occupancy principally by people age 55 years and over, with units that include some basic services such as meals, housekeeping, grounds maintenance, security, and common areas and common facilities for events and activities benefiting residents of the development.
Invasive Species	Any plant listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.
Lot	is a parcel of land in one ownership, with definite boundaries, occupied or suitable to be occupied by a certain use. See also **Lot Area**.
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, s. 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.
Lot line	A line of record bounding a lot that divides one lot from another lot or from a public or private right of way. [34]
Marina	A facility which provides dockage or berthing for more than five (5) vessels and may also provide the services of a Vessel Service Facility.[35]
Mean Natural Grade	The natural grade of undisturbed land relative to a given structure or portion of a given structure. The Mean Natural Grade shall be calculated as the average of the natural elevation at the four (4) most remote corners of a structure or portion of a structure, as determined by the Building Inspector.[36]
Mixed –Use Buildings[37]	A building that contains a combination of one or more retail, government, commercial, or other business uses allowed in the underlying zoning district and one or more residential dwelling units.

[29] Adopted 2021, ATM, Article #74.
[30] Adopted 2021, ATM, Article #74
[31] Amended, ATM 2026: Article #70
[32] Amended, ATM 2026: Article #70
[33] Adopted 2021, ATM, Article #81
[34] Ibid.
[35] Added, ATM 2018, Article #59; Also refer to ATM, 2018, Article #63
[36] Added, ATM, 2018, Article #59; further Amended, ATM 2021, Article #74
[37] Amended, ATM, 2024, Article #93;

Multi-unit dwelling and or dwelling units [38] [39]	shall mean any building consisting of three or more attached single-family units with each unit providing independent living facilities
Non-Habitable Minor Accessory Structure	shall mean a building with four walls, and a roof which shall include, but is not limited to, storage sheds, pump houses and garbage bin enclosures
Open Land:	is 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) [40]	A Planned Development District shall mean 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 General Laws, Ch. 40A, Section 9. A Planned Development District shall consist of not less than five (5) contiguous acres of land.
Protected Tree	Any existing tree with a DBH of four (4) inches or greater that has any portion of its trunk within a Tree Yard at grade level. Invasive Species of trees shall not be considered Protected Trees.
Protected Use Accessory Dwelling Unit (ADU)[41]	As defined in G. L. Ch 40A, § 1A, a Protected Use ADU is a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in Gross Floor Area than ½ the gross floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by this Bylaw.
Recreational Vehicle	Shall mean vehicles normally used for recreational purposes including removable truck-mounted campers, motor homes, travel trailers, van conversions and similar vehicles.
Registered Marijuana Dispensary (RMD)	Shall mean a not-for-profit entity, as defined by Massachusetts law only, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualified patients or their personal caregivers, and which is properly licensed and registered by the Massachusetts Department of Public Health under all applicable state laws and regulations.
Roof, Flat	Any section of roof with a slope not more than three inches over twelve inches (a "three pitch" or a 3:12 pitch).
Roof, Pitched	Any section of a roof with a slope or pitch greater than three inches over twelve inches (a "three pitch" or a 3:12 pitch).
Renovation	The alteration or removal of any part of an existing structure for the purpose of maintenance or improvement without change to the existing footprint or height of the structure.[42]

[38] Adopted 1986.
[39] Amended, ATM, 2024, Article 92, defining a multi-unit dwelling to have three or more independent dwelling units under one contiguous roof.
[40] Adopted 1980.
Amended 1981 (uncertain);
Amended 1986: Last sentence changed from "…twenty-five (25) contiguous acres" to "…five (5) contiguous acres"
[41] Adopted 2025: ATM, Article #79
Amended ATM 2026: Article #70
[42] Added, 2018, ATM, Article #59

Setback [43] A certain distance between a lot line and the line of a building or projection thereof, measured on a line perpendicular to the lot line.

Short-Term Rental [44] A rental for residential accommodation of a whole or portion(s) of a dwelling, dwelling unit, or subordinate dwelling, excluding Transient Residential Facilities, where the rental period is for not more than thirty-one consecutive calendar days.

Sign Shall mean and include any structure, devise, letter, work, model, banner, pennant, Insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement or direction.

Skilled Nursing Facility [45] A long-term senior residential facility that provides personal care support services such as meals, medication management, bathing, dressing, and transportation, as well as medically necessary care provided by licensed nurses, speech pathologists, and physical and occupational therapists, principally for people age 55 years and over, and licensed by the Massachusetts Department of Public Health and/or the Centers for Medicare and Medicaid Services.

Special Permit Granting Authority[46] shall be:

The Planning Board for Special Permit 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, Edgartown Ponds Area District; and Surface Water District;[47]

Building Inspector for permits and special permits under the Sign Bylaw (Article 11); and

The Zoning Board of Appeals for all other special permits authorized by this Bylaw.

Street [48] shall mean 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 [49] is a combination of materials assembled at a fixed location to give support or shelter. A structure includes any building. Swimming pools and tennis courts shall be considered structures. A fence or wall over six feet high shall be considered a structure; an open terrace not more than thirty inches above grade shall not be considered to be a structure. A vessel shall not be considered to be a structure.

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[43] Adopted 2021, ATM, Article #74
[44] Adopted 2025, ATM, Article #77
Amended 2026, ATM, Article
[45] Adopted 2021, ATM, Article #81
[46] Adopted in 1978, with different wording.
Amended in 1981, more changes but not the same as 2009.
[47] "and Surface Water District;" added in 1987
[48] Adopted 1984.
[49] Adopted in 1973;
Amended in 1977.
"A vessel shall not be considered to be a structure." Added in 1987

Time Sharing or Time Interval Ownership Dwelling Unit [50]	A dwelling unit in which the exclusive right of use, possession or occupancy circulates among various owners of 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, time span ownership, interval ownership) and a timeshare 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 limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond.
Transient Residential Facilities [51]	Hotels, motels, inns or lodging houses with a capacity of more than four guest beds, and time-sharing or time-interval ownership dwelling units.
Tree Removal	Mechanical demolition of a living tree, or any act (1) that has caused a tree to die within the previous 12 months or (2) is likely to cause significant decline or death as determined by the Reviewing Agent.
Tree Save Area	The area surrounding all Protected Trees, sufficiently large to ensure the health of the Protected Tree(s), including their trunks, crowns, and root systems.
Tree Yard	The minimum front, side and rear yard setback area of a parcel in a residential zoning district as specified in the Edgartown Zoning Bylaw.
Use	Is the purpose for which land or any structure is occupied or maintained, arranged, designed, or intended.
Vessel [52]	Every description of watercraft, other than a sea/float plane on water, uses as a means of transportation on water. Specifically excluded by this definition are floating homes or dwellings.
Vessel Service Facility	A 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; berthing or dockage facilities for not more than five (5) vessels not being serviced or repaired.[53]
Wind Energy Conversion System (WECS) [54]	a device which converts wind energy to mechanical or electrical energy.

[50] Adopted 1982.
[51] Adopted 1982.
[52] Amended, 1987, to add "other than a sea/float plane on water, uses as a means of transportation on water. Specifically excluded by this definition are floating homes or dwellings."
[53] Added, ATM 2018, Article #59; Also refer to ATM, 2018, Article #63
[54] Adopted: 1980.

1.4 Enumeration of zoning districts. [55]

The Town of Edgartown is hereby divided into the following districts for the administration of this bylaw, and which are identified upon the zoning maps of the town filed with the Office of the Town Clerk and made part of this bylaw.

District	Description	Minimum Lot Size	Front Yard Setback	Side & Rear Setbacks	SPGA
R-5	Residential	10,000 sq ft	20 ft [56]	5 ft.	ZBA
R-20	Residential	½ acre	30 ft.	10 ft.	ZBA
R-60	Residential	1 ½ acres	50 ft.	25 ft.	ZBA
R-120	Residential, Chappaquiddick	3 acres	50 ft.	25 ft.	ZBA
RA-120	Residential/Agricultural	3 acres	50 ft.	25 ft.	ZBA
B-1	Town Center	5,000 sq. ft	10 ft. [57, 58]	5 ft. [57]	ZBA
B-2	Business/Upper Main Street	6,500 sq. ft	20-40 ft. [59]	10 ft.	PB
B-3 [60]	Business/Outlying	N/A			ZBA
B-4 [61]	Trades	N/A			ZBA
Planned Develop.[62]	Overlay District to R-20				PB
Coastal	Overlay District				PB
Island Road	Overlay District				PB
Special Ways	Overlay District				PB
Special Places	Overlay District				PB
Cape Pogue	Overlay District				PB [63]
Katama	Overlay District				PB
Edgartown Ponds	Overlay District				PB
Surface Water [64]	Harbors, Bays & Ponds				PB

FRONTAGE: All lots created after April 9, 1985 will have a minimum frontage of 50 feet on a street.

No part of a structure, including projections from a structure, eaves, gutters and cornices, shall be located or constructed closer than the minimum Setback as defined herein.

Mechanical equipment that generates noise (such as generators, air-conditioners, pool equipment, etc.) may be placed closer than the minimum Setback, but no closer than five feet to any lot line, provided that adequate measures have been taken to minimize any noise pollution from such equipment.

In accordance with Section 6 of Chapter 40A of the General Laws, structures intended to provide assistance to individuals with physical impairments such as ramps and chair lifts are exempt from Setback restrictions.[65]

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[55] Adopted 1969: ATM, Article 7 section 2
Amended 1973: ATM, Article 8 (III)
[56] Article 2.3.D (previously: 6.4.)
[57] Article 3.1.D (previously 9.4.)
[58] 0 setbacks on Main St.
[59] Article 3.2.E (previously 10.5.)
[60] Adopted 1984.
[61] Adopted 1999.
[62] Adopted 1981.
[63] Article 5.4.F (previously 14.4.6)
[64] Adopted 1987.
[65] Article 10 (previously Article 11). Also amended 2021, ATM, Article #75

Article II - Residential Districts

2.1 R-60 Residential District [66]

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:

2.1.A Permitted Uses [67]

1. One single family detached dwelling on a lot with usual and necessary outbuilding incidental thereto.
2. Religious and educational uses not for profit.
3. Public parks, playground, fraternal buildings, municipal uses, and recreational buildings not for profit.
4. Accessory uses customarily incidental to a permitted use on the same premises, including by not limited to the following:
    a. 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.
    b. 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 Bylaw. [68]
5. The non-commercial use of wharves, piers and docks or waterfront property, except as noted above in 2.1.A.4.b.
6. One guest house, that is not a Protected Use ADU, on a lot with a single family dwelling, which dwelling shall have been in existence for not less than five years. Such guest house shall not be larger than 900 square feet in total Gross Floor Area. The front, side, and rear set back requirements for a guest house 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 guest house is constructed must have a minimum area of 15,000 square feet. Either the original or subsequent building may be designated as a guest house. [69]
7. Any agricultural or horticultural use, and the sale of produce raised on the premises.
8. One Protected Use ADU on a lot with a principal dwelling, subject to the conditions of Section 10.3.I of this Zoning Bylaw.[70]
9. Short-Term Rental

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[66] Revised or established, 1973: ATM, Article 8 (iv)
Revised, 1975.
[67] Adopted 1966: ATM, Article 9, section 4.
Amended 1969: ATM, Article 7, Section 4
Amended 1970: ATM, Article 4
[68] Adopted, 1989.
[69] Amended 1976;
Amended 1979.
Amended, 2026 ATM: Article #70
[70] Adopted April 2025: ATM, Article 79(B)

2.1.B **Conditionally Permitted Uses** [71]

Conditionally Permitted Uses, requiring special permit from the Board of Appeals, in accordance with the regulations appearing in Article 17.4 and Article 10.2.A. of this bylaw. [72]

1. 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. [73]
2. 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.
3. Private club operated for members only, not conducted for profit.
4. Shops and storage buildings incidental to the building trades.
5. Stand for the sale of primarily locally Island Grown produce, provided that no offensive noise, odors, unsightliness or traffic congestion is produced.
6. Small-scale business and industry, subject to the requirements of Section 10.2.A.2. [74]
7. Farm silo over 32 feet but not over 60 feet in height provided that it is set back enough to avoid accidentally falling or abutting land or dwelling.
8. Wind Energy Conversion System (WECS) as regulated by Section 14.1. [75]
9. Guest house larger 900 square feet in total Gross Floor Area provided that all other requirements of 2.1.A.6 are met.[76]
10. One guest house 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 2.1.A.6 are met.
11. More than two, but less than six, separate commercial events per calendar year that comprise a gathering of 50 or more persons on a single lot comprising three or more acres of land, including the service of food and/or beverages, such as rentals for wedding or graduation parties, other celebrations, or other congregations of persons. A special permit shall be issued with any conditions imposed by the Board to minimize disruption to the neighborhood, and only upon a finding that the following criteria are satisfied:
    a. Guest attendance at the events shall be by invitation only and shall be limited to a set capacity per event as determined by the Board so as to avoid congestion of streets.
    b. Sufficient off-street parking to accommodate the proposed number of guests and any temporary workers shall be provided, or sufficient transportation arrangements shall be made to shuttle guests and/or workers.
    c. The physical location of all components of the event such as food service and preparation areas, musical performances, portable toilets, dining areas, and any outdoor tents or similar facilities shall be identified on a plan filed with the Board, and designed to minimize vehicular and pedestrian congestion on streets and driveways, noise, odors, light pollution and trash-related nuisances.

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[71] Amended 2025: ATM, Article 84. Section 11 and 11(a) through 11(f) added.
[72] Adopted 1966: Article 9, Section 5.
Amended 1969: Article 7, Section 5.
[73] Adopted, 1984.
[74] Adopted, 1980.
[75] Adopted 1980. Further amended
[76] Amended, 2026 ATM: Article #70

d. Where possible, screening shall be provided to screen neighboring properties from where people will congregate, vehicular parking, and any sources of noise, odors or artificial light generated by the event.
e. Outdoor events shall be limited to the hours of 9:00 AM - 10:00 PM. Indoor events shall be limited to the hours of 9:00 AM -11:00 PM. The Board may extend these hours upon a showing of unique circumstances, and where noise and light can and will be sufficiently managed to minimize any impacts on neighboring properties.
f. Amplified music shall be allowed only upon a showing that noise can and will be sufficiently managed to minimize any impacts on neighboring properties.

2.1.C **Accessory Uses and Structures Permitted**

1. Structures which are incidental to the residential use of the premises and not operated for gain, including, without limitation, garden house, tool house, greenhouse, playhouse, detached bedroom, tennis court, wading pool, temporary or permanent swimming pool. [77]
2. 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.
3. 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.

2.1.D **Bulk, Area and Parking Requirements**

Minimum Requirements:

- Total Lot Area ..... 1½ Acres
- Front yard (Setback in feet) ..... 50 feet
- Side Yards (feet) ..... 25 feet
- Rear Yard (feet) ..... 25 feet
- Off-street parking ..... one for every two bedrooms

2.1.E **Prohibited Uses**

1. Transient Residential Facilities

2.2. R-20 Residential District

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:

2.2.A **Permitted Uses**

1. Any uses permitted in the R-60 District.
2. 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 Bylaw.
3. 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

[77] Amended 4/2024, ATM, Article #97.

2.2.B **Conditionally Permitted Uses**

Conditionally Permitted Uses requiring special permit from the Board of Appeals, in accordance with the regulations appearing in Article 11.4 and Article 10.2.A of this bylaw.

1. 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 Section 2.3.B.2 are satisfactorily met.
2. 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 the Bylaw.
3. Restaurant, subject to the requirements of Section 10.2.A.2.
4. Gasoline or automobile service station subject to the requirements of Section 10.2.A.2.
5. Private club, operated for members only, not conducted for profit.
6. 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.
7. Boat yards, shops and storage buildings incidental to the Building trades.
8. Office of a doctor or dentist or other member of a recognized profession residing on or owning or renting the premises, provided there is no display or advertising except as specified in Article XIV of the Bylaw, and provided there is off-street parking.
9. Small-scale business and industry subject to the requirements of Section 10.2.A.2.
10. Stand for the sale of produce, primarily Island grown, provided that no offensive noise, odors, unsightliness or traffic congestion is produced.
11. Wind Energy Conversion System (WECS) as regulated by Section 14.1.
12. One guest house larger than 900 square feet in total Gross Floor Area, provided that all other requirements of 2.1.A.6. are met.[78]
13. One guest house 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 2.1.A.6. are met.

2.2.C **Accessory Uses Permitted**

Any Accessory Uses and Structures 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 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.

2.2.D. **Bulk, Area and Parking Requirements**

Minimum Requirements:

- Total Lot Area (square feet) 21,780
- Front Yard - setback (feet) 30
- Side Yards (feet) 10
- Rear Yards (feet) 10
- Off-street Parking ..... one space per two bedrooms.

[78] Amended, ATM 2026: Article #70

2.2.E Prohibited Uses

1. Transient Residential Facilities

2.3. R-5 Residential District.

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:

2.3.A Permitted Uses

1. Any use permitted in the R-60 District, except that the lot on which a guest house is constructed must have a minimum area of 15,000 square feet.
2. Two-family dwelling 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.

2.3.B Conditionally Permitted Uses

Conditionally Permitted Uses requiring a special permit from the Board of Appeals, in accordance with the regulations appearing in Article 11.4 and Article 10.2.A of this Bylaw.

1. Conversion of an existing residential structure to a transient residential facility or to professional offices.
2. Conversion of an existing one or two family residential structure to a maximum three dwelling unit structure, provided the following conditions are satisfied in all dwelling units.
    a. Adequate cooking facilities.
    b. Provision for electrical service, water supply and full plumbing.
    c. Provision for built-in heating, if unit is to be occupied 220 days or more per year.
    d. Minimum Gross Floor Area of 400 square feet.
    e. Separate internal entrances for each dwelling unit within the structure.
    f. A minimum of 1 1/2 off-street parking spaces per dwelling unit.
    g. Any other improvements required by the Board of Appeals.
    h. Minimum lot size of 15,000 square feet.
3. New construction of an inn or hotel.
4. Small-scale business and industry, subject to the requirements of Section 10.2.A.2.
    a. No more than one dwelling unit in the structure, and said residence must fully comply with all the conditions in Section 2.3.B.2 immediately preceding.
    b. No more than one retail facility in the structure, not occupying more than 50% of the total Gross Floor Area of the structure.
    c. Parking shall consist of a minimum of four slots for each mixed use facility.
5. Restaurants, whether of the commercial or private club type.
6. Recreational use for profit.
7. 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 Bylaw.
8. Wind Energy Conversion System (WECS) as regulated by Section 14.1.
9. Guest house larger than 900 square feet in total Gross Floor Area, provided that all other requirements of 2.3.A.1. are met.

10. One guest house 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 2.3.A.1 are met.

2.3.C **Accessory Uses Permitted**

Any Accessory Uses and Structures Permitted in the R-60 District.

2.3.D **Bulk, Area and Parking Requirements**

Minimum Requirements:

- Total Lot Area (square feet): 10,000
- Front Yard - Setback (feet): ..... 20 feet*
- Side Yards (feet):..... 5
- Rear Yard (feet): 5
- Off-street Parking spaces per dwelling unit: 2
- There shall be a maximum of one 16' wide curb cut per lot on a public street, in accordance with Section 10.1.H of this bylaw.[79]

** However, no building need provide a front yard larger than the average of front yards of existing buildings on adjacent lots on the same side of the street.*

2.4. R-120 Residential District.

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:

2.4.A **Permitted Uses**

Any uses permitted in the R-60 District except that one guest house is permitted on a lot with a single family dwelling only if the lot has a minimum size of three acres and the dwelling has been in existence for not less than five years. Such guest house shall not be larger than 900 square feet in total Gross Floor Area. The front, side, and rear set back requirements for a guest house shall be the same as those for a principal structure in R-120. Either the original or subsequent building may be designated as a guest house.

2.4.B **Conditionally Permitted Uses**

Conditionally Permitted Uses requiring special permit from the Board of Appeals, in accordance with the regulations appearing in Article 10.1.F and Article 10.2.A of this Bylaw.

Conditionally Permitted Uses in the R-60 District except:

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 guest house in 2.4.A are met
    b. the ground water 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 salt water body
    c. no portion of a sanitary disposal system shall be located less than 5 feet above minimum groundwater level
    d. The guest house, 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.

[79] Changed, ATM 2018, Article #64

2.4.C **Accessory Uses**

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.

2.4.D **Bulk, Area and Parking Requirements**

Minimum Requirements:

- Total Lot Area .....3 acres
- Front Yard ..... Setback 50 feet
- Rear Yard ..... Setback 25 feet
- Side Yards .....25 feet

2.4.E **Height of Structures**

Maximum height of structures as measured vertically from the Mean Natural Grade in the same area of the proposed structure shall be as follows: 26 feet for a Pitched Roof and 18 feet for a Flat Roof.

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 the structure as proposed would not extend above the average height of vegetation, as accurately measured on site, that would exist around the structure after construction; and
(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.

2.4.F **Prohibited Uses**

Transient Residential Facilities

2.5. RA-120 Residential District

In an 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:

2.5.A **Permitted Uses**

Any uses 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.

2.5.B **Conditionally Permitted Uses**

Conditionally Permitted Uses requiring special permit from the Board of Appeals, in accordance with the regulations appearing in Article 10.1.F and Article 10.2.A of this Bylaw.

Any conditionally permitted uses in the R-60 District except for the conversion to a two family dwelling.

2.5.C **Accessory Uses**

Any uses permitted in R-60 District except that the grazing and housing of animals shall not be subject to the location restrictions on the lot.

2.5.D **Bulk, Area and Parking Requirements**

Minimum Requirements:

- Total Lot Area .....3 acres
- Front Yard ..... Setback 50 feet
- Rear Yard ..... Setback 25 feet

- Side Yards ..... Setback 25 feet

2.5.E **Prohibited Uses**

Transient Residential Facilities.

Article III, Business Districts

3.1. B-I Business District

The B-1 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-1 Business District no development shall be allowed except as follows:

3.1.A Permitted Uses [80]

1. Principal and accessory uses permitted in the R-5 Residential District, except those uses which require a special permit under section 3.1.B.

3.1.B Conditionally Permitted Uses

Conditionally Permitted Uses by Special Permit from the Board of Appeals.

1. 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.
2. Inn or hotel.
3. Restaurant including fast-food restaurant only if pedestrian-oriented, evidenced by location of premises having no more than six off-street parking spaces and having no drive-through facilities.
4. 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.
5. Uses requiring special permits under other sections of the Zoning Bylaw: (wind energy conversion systems {14.1}, accessory scientific use {10.2.D}, outdoor dining {10.2.E}, and coastal district uses {5.1}).

3.1.C Prohibited Uses

1. Other fast-food restaurants (see definitions).
2. Drive-in or drive-through facilities for restaurants, banks, or other uses.
3. Automobile gas or service facilities

3.1.D Bulk, Area and Parking Requirements

1. Total lot area shall be not less than 5,000 square feet. However, provided that all other provisions of this Bylaw 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 Section 10.1.G.3 and 10.1.G.4.
2. 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:
   a. 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.
   b. There shall be a maximum of one 16’ wide curb cut per lot on a public street, in accordance with Section 10.1.H of this bylaw.[81]
   c. Pedestrian areas, terraces, or landscaped areas.
   d. On special permit, outdoor eating areas.
3. Side and rear yard setbacks shall equal 5 feet minimum, except that on special permit those yards may be reduced to zero for party wall or similar

[80] Amended, 4/2024, ATM, Article #97.
[81] Changed, ATM, 2018, Article #64

construction, provided that adequate access is assured for fire or other emergency and public services.

4. Floor area below ground level may be used as follows:
   a. Uses in accordance with 3.1.A (Permitted Uses) and 3.1.B (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.
   b. 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:
      i. Storage
      ii. Offices
      iii. Production facilities such as but not limited to artisan studios; woodshops, sewing shops, or looming shops.
   c. Bathrooms
5. 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 3.1.D.4.a. or 3.4.D.1.b. 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.
6. At least one off-street loading space must be provided for any use requiring a special permit (see 3.1.B) or for any restaurant.
7. 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.
   a. Retail sales or service establishments: one parking space for each 500 square feet of Gross Floor Area or any fraction thereof.
   b. Place of public assembly: one space for each 8 seats therein.
   c. Restaurants, bars, eating places: one space for each 6 seats therein.
   d. Office or professional use: one space for each 400 square feet of Gross Floor Area.
   e. Inns and hotels: one space for each guest unit plus one space for each 8 guest units or fraction thereof.
   f. Dwellings: one space for each 2 bedrooms.
   g. 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.
8. Off-street parking requirements may be met in any one or combination of the following ways:
   a. On-site.
   b. 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.
   c. 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.

3.1.E **Special Permit Considerations**

Special permits shall be granted in the B-1 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:

1. Activity
   a. Will the proposal contribute to the diversity of services available in the district?
   b. Will the proposal provide service to or employment for the year-round population?
   c. 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 ridesharing)?
2. Site Design
   a. Are views from public ways and developed properties considerately treated?
   b. Are existing trees or other important natural features protected?
   c. Is pedestrian movement facilitated, avoiding interruption by access drives or other impediments?
   d. Is street edge continuity maintained through building location, hedges, fences, or other devices?
3. Building Design
   a. Are views from public ways and developed properties considerately treated?
   b. Do materials match the appearance of one of the predominant materials in the District?
   c. 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?
4. *(Removed)*[82]

3.2. B-II Upper Main Street District

The B-II Upper Main Street District is intended to provide for existing and future businesses while at the same time preserving the small town characteristics of the entrance to the town center and continuing a mix of residential and non-residential uses. It is the intent of this Bylaw 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:

3.2.A **Permitted Uses**

1. Any uses permitted in the R-5 District;
2. Public parks, public playgrounds, and noncommercial recreational or fraternal buildings;
3. Religious and educational.

[82] Removed, ATM, 2018, Article #60

3.2.B **Uses Permitted by Special Permit from the Planning Board.**

1. New Construction of structures containing the following uses shall require a Special Permit:

a) Retail and service stores;
b) Offices;
c) Eating establishments;
d) Banks;
e) Transient residential facilities;
f) Light manufacturing, wholesale or storage facilities of less than 3,000 square feet gross floor space;
g) Gas stations, automotive repair shops, or salesroom;
h) Movie theater, playhouse, and other centers for the performing arts;
i) Nursery, horticultural uses on parcels of less than five (5) acres;
j) Commercial recreation facilities, except as provided in Section 3.2.C;
k) Apartments;
l) Farmers markets or similar outdoor markets, provided that use does not exceed thirty (30) days per calendar year;
m) 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 Section 3.2.A or Section 3.2.B herein;
n) Municipal or governmental uses.
o) Marijuana Retailer[83]

2. Conversion of a residential structure to a commercial structure containing any of the uses in section 3.2.B.1 shall require a Special Permit.

3. Expansion or alteration of a nonconforming use if such expansion or alteration would create a need for any of the features set forth in section 3.2.D.4.a-c, below, shall require a Special Permit.

4. Changes of Use Not Requiring a Special Permit

Any change of use from one category of Special Permit use set forth in Section 3.2.B.1 to a different category in said section, regardless of whether 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; or
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 and screening of the structure or use. The burden of proof shall be upon the property owner to demonstrate that no such modifications shall occur. This section 3.2.B.4 is not applicable to the expansion, alteration, or change of nonconforming structures which is governed by section 3.2.F below.

5. Notwithstanding anything to the contrary in Article 3.2, 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

[83] Amended by Town Meeting, April 9, 2019, Article #73. Previously: "Registered Marijuana Dispensary"

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
e. sale of food or drink prepared or portioned on site for consumption either on the site or off-site

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.

This section 3.2.B.5 is not applicable to the expansion, alteration, or change of nonconforming structures which is governed by section 3.2.F below.

3.2.C **Prohibited Uses**

1. Amusement parks, drive in movie theaters, or other similar recreational facilities;
2. Any use which is noxious, offensive or causes a nuisance;
3. All others not included in Section 3.2.A or 3.2.B

3.2.D **Special Permit Procedures**

1. Application. Applications for Special Permits for new construction (including expansion, alteration or change) of a use set forth in Section 3.2.B.1, and applications for changes from one category of use permitted by Special Permit in Section 3.2.B.1 to another category (unless exempted by Section 3.2.B.2), shall be accompanied by seven (7) copies of a Development Plan. Unless waived by the Planning Board in writing for unusually simple circumstances, plans subject to this section shall show the following existing and proposed features:

a. all boundary line information pertaining to the land sufficient to permit location of same on ground, including assessors map and lot number information;
b. existing and proposed topography at 2 foot contour intervals;
c. water provision, including fire protection measures;
d. sanitary sewerage
e. storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's Subdivision Rules and Regulations;
f. parking and loading spaces, access and egress provisions (including location of curb cut), walkways, and existing parking areas on adjacent lots;
g. planting, landscaping, and screening;
h. location of existing and proposed buildings, with information on gross lot coverage;
i. first floor plans and architectural elevations of buildings, location of proposed signs with dimensions, proposed lighting, and representation of building facade from the street providing frontage;
j. sufficient information to ensure compliance with all applicable provisions of this Zoning Bylaw.

2. Preparation of Development Plan. Development Plans shall be submitted on 24-inch by 36-inch sheets. 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 Section 3.2.D.1 and Section 3.2.D.2 where no exterior change will be made to an existing building and the lot on which the use is located.

3.2.E **Conditions**

No application for a Special Permit for new construction or change from one category of Special Permit use to another (unless exempted by Section 3.2.B.2) shall be considered by the Planning Board unless all proposed construction or change, as evidenced by the Development Plan, conforms with all of the following conditions:

1. Dimensional and Other Lot Requirements
    a. Total lot area shall not be less than 6,500 square feet;
    b. More than one principal structure may be placed on a lot provided the applicant demonstrates that:
        i. 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;
        ii. 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;
        iii. 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.
    c. 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 front lot line[84], except that a structure need not be set back further than any structure existing on the premises on April 11, 1989, if less, or further[85] than the average of the setbacks on adjacent lots, if less. No structure shall be located within ten (10) feet of the side or rear property lines. Where an applicant demonstrates that greater front setbacks, or lesser side or rear setbacks, is 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.
    d. At least 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.
    e. No sign shall be located within fifteen (15) feet of the street pavement line. Signs shall meet all of the requirements in Article 11, herein.
2. Parking, Loading, and Access Requirements
    a. Required parking areas shall not be located forward of any building front line on the lot, on an adjacent lot or contiguous lots;
    b. 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 or more spaces, individual spaces shall be delineated by painted lines, wheel stops, or other means;
    c. Off-street parking shall be provided in accordance with or shall exceed, the following schedule:
        i. Retail sales and service establishments: one parking space per 350 square feet of Gross Floor Area or any fraction thereof;

[84] "…nor less than twenty (20) feet from the ~~street pavement line~~ **front lot line**, except…" – approved ATM 2018, Article #61
[85] "…on April 11, 1989, if less, ~~and no~~ **or** further than the average…" – approved ATM 2018, Article #61

ii. Places of public assembly: one space per four seats of occupancy;
iii. Restaurants, bars, eating places: one space per three seats therein;
iv. Office or professional use, banks: one space per 250 square feet of Gross Floor Area or any fraction thereof;
v. Inn and hotels: one space per guest unit, plus one space per each twelve guest units or any fraction thereof;
vi. Dwellings: one space per two bedrooms, or fraction thereof;
vii. Other uses: spaces in accordance with anticipated needs as determined by the Building Inspector after consultation with the Planning Board.

d. Parking areas shall contain 250 square feet of planted areas for every 1000 square feet of parking proposed.
e. For parking areas of fifteen (15) or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per three (3) 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;
f. 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 vehicle 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.
g. To the extent feasible, lots and parking areas shall be served by common private access ways, in order to minimize the number of curb cuts in the B-II District. Such common access ways shall be in conformance with the functional standards of the Subdivision Rules and Regulations 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 proper maintenance, repair, and apportionment of liability for the common access way and any shared parking areas has been agreed upon by all lot owners proposing to use the common access way. Common access ways may serve any number of adjacent parcels deemed appropriate by the Planning Board.
h. There shall be a maximum of one 16' wide curb cut per lot on a public street, in accordance with Section 10.1.H of this bylaw.[86]

3. Screening, Buffers, and Landscaping
a. 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, but the use of planted buffers of at least 10 feet in width, fences or walls, location, or combination thereof. Fences shall be no higher than six (6) feet and of design and materials consistent with the architecture and landscape of Edgartown. 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 visual intrusion.
b. 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 sightly condition at all times.

[86] Changed, ATM, 2018, Article #64

4. Building Design and Use
   a. Floor area below ground level may be used in accordance with 3.2.A (Permitted Uses) and 3.2.B (Conditionally Permitted Uses) as long 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.
   b. The total floor area (measured from exterior faces of the structure) on all floors of all structures (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 bylaw.

      Notwithstanding the above, the total floor area of all structures 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 a common access way, as set forth in Section 3.2.E.2.g, or shared parking areas with adjacent premises.
   c. 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;
   d. Frontal dimensions of principal structures shall be approximately parallel to Upper Main Street, or other nearby street providing frontage for the lot.
   e. 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.
   f. Structures shall maintain consistent appearance with other structures in the area and the Town as to primary wall and roof materials and color.
   g. Conversion of existing residential structures to commercial structures or use shall retain the existing structures to the extent feasible without removal or destruction thereof.

3.2.F **Expansion, Alteration, or Change of Nonconforming Structures and Uses**

No alteration, expansion, or change of a nonconforming structure or use, except as exempted in section 3.2.B.3 or 3.2.B.4 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.

3.2.G **Decision**

In order to reach a conclusion under the general criteria for issuance of a Special permit set forth in Section 17.5, 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:

1. promote development consistent with the traditional structures in Edgartown, as viewed from public ways;
2. maintain consistent appearance with other structures in the area and the town as to primary wall and roof materials and color;
3. reduce, to the extent feasible, the number of curb cuts in the District;
4. reduce intrusion from commercial structures, lighting, and parking areas on adjacent residentially zoned or occupied properties;

5. promote traffic and pedestrian safety;
6. promote scenic views from publicly accessible locations.

3.3. B-III Light Industrial and Service District[87]

3.3.A. **Area:**

The B-III Light Industrial and Service District ("the B-III District")[88] 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 Bylaw as the B-IV District.

3.3.B. **Purpose:**

The B-III 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 follows:

3.3.C **Permitted Uses**

1. Aviation facilities and aviation related uses
2. Light manufacturing and light industrial facilities
3. Storage facilities
4. Parking and storage of light, medium, or heavy equipment
5. Boat yards
6. Boat and boat equipment sales and showrooms
7. Gas stations including a convenience store.
8. Automobile, truck, heavy equipment, and vehicle sales and showrooms
9. Furniture sales and showrooms
10. Appliance sales and showrooms
11. Commercial or commissary kitchens, with no retail sales on the premises
12. Fish and agricultural products buying and processing and other food processing
13. Animal hospitals, boarding, and grooming
14. Wind Energy Conversion Systems (WECS)
15. 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
16. 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
17. Amusement facilities or other commercial recreational facilities
18. Indoor commercial athletic facilities including health clubs
19. Reclamation and recycling services and facilities
20. Commercial laundries, dry cleaning facilities, and Laundromats
21. Agriculture, horticulture, floriculture, and viticulture
    a. Service businesses as follows:
    b. full service automotive or truck facilities
    c. auto or truck service such as repair, lubrication, body shop
    d. boat service, repair, storage

[87] Changed, ATM, 2018, Article #62
[88] Ibid.

e. rental of cars, trucks, light or heavy equipment, or party supplies (tents, chairs etc.)
f. landscaping services
g. appliance and mechanical equipment service and repair
h. maintenance and repair of goods assembled or manufactured on the premises
i. plumbing, heating, carpentry, electrical, boatbuilding, dock building and other similar service trades

3.3.D **Conditionally Permitted Uses**

1. municipal and government uses
2. residential uses
3. Dormitory Housing, subject to the following criteria:
   a) No larger than 100 beds per building
   b) 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
   c) A resident manager on site at all times.
   d) One parking space for each 4 beds
   e) Bike rack will be provided
   f) Any one occupancy shall be no longer than eight months
   g) Occupancy must be tied to verifiable employment on the Island.
4. Marijuana Establishment [89]

3.3.E **Bulk, Dimensional, and Site Requirements**

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.

For the purposes of this Zoning Bylaw, setbacks from the exterior boundaries of the parcel shall be as follows:

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.

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.

[89] Approved by Town Meeting, April 9, 2019, Article #73.

3.4. B-IV Trades District

3.4.A. 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' east of the Edgartown-West Tisbury town line and running east along the West Tisbury Road for 1000'; and also by a line running from that beginning point 1200' 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.

3.4.B. Purpose:

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.

3.4.C 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, dock builders, landscapers, welders, arborists, and loggermen
D. Buildings associated with the trades listed above to be used for
    a. indoor storage and maintenance of equipment
    b. office associated with the tradesperson on site but not intended for or used for doing business with the public

3.4.D Conditionally Permitted Uses

1. Dormitory Housing, subject to the following criteria:
    a. No larger than 100 beds per building
    b. 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
    c. A resident manager on site at all times.
    d. Bike rack will be provided
    e. Any one occupancy shall be no longer than eight months.
    f. Occupancy must be tied to verifiable employment on the Island.

3.4.E Bulk, Dimensional, and Site Requirements

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 Zoning Bylaw, within the B-IV Trades District:

1. 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 zone; 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.

2. 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 IV, Planned Development District

4.1. 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, ground water 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 to the provisions of G.L. Ch. 40A.

4.2. Special Permit Granting Authority

The Planning Board shall be the special permit granting authority in the PDD district.

4.3. Permitted Uses in PDD District

Uses permitted as of right in the underlying district shall be permitted uses in the PDD District.

4.4. Uses Permissible by Special Permit

The Planning Board may issue a special permit for certain residential and recreational uses within the PDD as follows:

4.4.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 25% of the units normally allowed in the underlying district. Townhouse units shall not exceed 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 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 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 General Laws, Ch. 184, Section 31-33, to insure 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 ground water, including limitation on the 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 a requirement of any form of ownership of any unit in the subdistrict;
b. provisions for maintenance assessments of all units in order to insure 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.

4.5. Procedures

4.5.A. Pre-application conference

Prior to the submission of an application for a special permit to develop within the PDD District 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.

4.5.B. Submission of preliminary PDD plan

The applicant may file five (5) copies of the preliminary PDD with the Planning Board. The Planning Board, within 45 days from receipt of the preliminary plan, 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 to 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. 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.

4.5.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 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 G.L. Ch. 40A, s. 11.
    a. One 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, Highway Superintendent and any other bodies as the Planning Board may determine.

b. The agencies receiving copies of the definitive plan shall submit to the Planning Board written recommendations on the proposed project within 35 days of filing. Failure to comment shall be deemed lack of objection.

c. The Planning Board, within (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 two 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 G.L., Ch. 40A, s. 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 list of persons to be notified shall be prepared by the applicant, 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 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 G.L., Ch. 40A, Section 16.

g. Special permits granted under this section shall lapse 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 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 deeds to any property within the PDD.

2. Contents of 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.

4.6. Performance Guarantee

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.

4.7. 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 Article 17, paragraph 1.
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, ground water 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.

4.8. 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 Section 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 11 of this zoning bylaw, applied appropriately to residential and business uses within the PDD.

4.9. 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 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 V, Districts of Critical Planning Concern (DCPC) Overlay Districts

5.1. Coastal District

5.1.A. Area of District

The Coastal District includes the land, streams, and wetlands of Edgartown which lie below ten (10) foot elevation above mean sea level, or within five hundred (500) feet to mean high water of a coastal water body exceeding ten (10) acres, or the ocean; all land within one hundred (100) feet of the streams and wetlands draining into the coastal Great Ponds.

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 (10) foot contour line.

5.1.B. Establishment of Zones in the Coastal District

1. **Shore Zone:** Consisting of the land from mean low water to 100 feet inland of the inland edge of any beach or marsh grasses, and 100 feet inland of the crest on any bluff exceeding a height of fifteen (15) feet, or within 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 to wave erosion of 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.

5.1.C. Permitted Uses

1. **Shore Zone[90]:** Only those uses which are consistent with the fragile nature of the area such as:
    a) Fishing and shellfishing, including the raising and cultivation of fish and shellfish.
    b) 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.
    c) Conservation of soil, water, plants and wildlife.
    d) Outdoor activities including hiking, swimming, boating, nature study, fishing, trapping, and hunting.
    e) Drainage works which are part of local flood and mosquito control conducted by an authorized public agency.
    f) Uses accessory to residential or other primary uses, such as flower or vegetable gardens, lawns, pastures, or forestry areas.
    g) Public or publicly authorized beach stabilization projects.
    h) Repair to an existing structure.
2. **Inland Zone:** All uses permitted in the Shore Zone as well as one single family dwelling and non-habitable minor accessory structures normally used for personal, family and household purposes; subject to the regulations and restrictions of Sec. 5.1.E. and the underlying zoning district.[91]

[90] Amended, ATM 2026: Article #71
[91] Amended, ATM 2019: Article #77

5.1.D. **Conditionally Permitted Uses**

The Planning Board may grant a Special Permit in accordance with Sec. 17.5.c.

1. Shore Zone[92]: The following uses:
   a) Non-residential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing, harvesting and storage of crops raised on the premises, and the storage of boats and boat equipment.
   b) Dams, changes in water courses, or other drainage works only as a part of an overall drainage plan constructed or authorized by a public agency.
   c) The superficial clearing of areas of private beach and filling or replenishment thereof in conformity with the provisions of Chapter 782 and 784, Acts of 1972 and Chapter 91 of the General Laws.
   d) Fabricated walks or trails, docks, and landings for private use.
   e) Alteration to an existing building and an addition to a single-family residence, provided the proposed work does not increase the gross floor area of any building by more than 10% of its size as of May 20, 1981.
2. Inland Zone: Uses allowed by permit or special permit by the Zoning Bylaw subject to the requirements of Sec. 5.1.E.

5.1.E **Development Regulations[93]**

Regulations and restrictions of the respective underlying Zoning District shall apply, subject to the following:

1. Height of Structures: 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 Roof. 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 ten (10) feet in width.
3. Except by Special Permit, all utility installations shall be placed underground.
4. Any ground water well shall require a permit from the Board of Health before installation, and shall be located at least two hundred (200) feet from any salt water body.
5. Any sanitary disposal facility shall be located a minimum of two hundred (200) feet from any salt water body.
6. There shall be a minimum separation of two hundred (200) feet between sanitary disposal facilities.
7. No portion of a sanitary disposal facility shall be located less than five (5) feet above minimum ground water elevation.
8. No sanitary disposal facility shall be located less than six hundred (600) feet from a public water supply well nor less than two hundred (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 (4-8) may be modified by the Board of Health.

[92] Amended, ATM 2026: Article #71
[93] Amended, ATM 2026: Article #71

10. Notwithstanding subsection 5.1.E.9., the Board of Health's approval of an upgrade from an existing septic system or cesspool to a Title 5 septic system or other enhanced system, that entails the modifications of one or more of the setback or separation requirements set forth in subparagraphs 4-8, shall be lawful, whether or not the lot on which the upgraded system is located was in separate ownership from adjoining lots before December 22, 1976 provided that, in the opinion of the Board of Health, the revised design provides:
    a. for no increase in flow;
    b. for no increase in the number of bedrooms;
    c. there is a greater protection of public health, safety and the environment than the existing cesspool; and
    d. the provisions of subsection 5.1.E.10. shall only apply to existing lots created before February 15, 2011.

    This subsection shall apply to approvals issued prior to the date of this Amendment, as well as to those issued thereafter.

5.2. Island Road District.

5.2.A. Major Roads

1. Major Roads:

consisting of the area lying within 200 feet of the right of way of the following roads:

- West Tisbury-Edgartown Road from the Chase Road intersection west to the Town boundary.
- Beach Road from the intersection of the Edgartown-Vineyard Haven Road north and northwesterly to the Town boundary.
- Chappaquiddick Road from the ferry landing to the intersection of Pocha Road, including Dike Bridge Road to the boundary of the Trustees of Reservations' property, Assessors FY17 data – Map 32 Lot 2, and including Pocha Road to the boundary of the Trustees of Reservations' property, Assessor's FY17 data – Map 49 Lot 1.[94]
- Katama Road from the intersection with Herring Creek Road south to and including Atlantic Drive.
- Herring Creek Road.
- The Edgartown-Vineyard Haven Road from the end of the B-II zoning district (Pennywise Path) westerly to the Town boundary.

2. Permitted Uses

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 Sec. 5.2.C. of the Zoning By-laws.

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 (1) access to a major road from each lot held in separate ownership from the lot 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

[94] Text of Chappaquiddick Road section was amended by ATM, April 9, 2019, Article #76. Amendment updated the language to comply with current assessors maps, and did not change the area of the district.

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 shall be twenty-six feet for a Pitched Roof and eighteen feet for a flat roof.

5.2.B. Special Ways

5.2.B.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 the outdoors, and a conservation resource to accommodate and promote non-motorized means of transportation. While some segments of a Special Way may be routinely used by automobiles, they nevertheless provide continuity to the entire Special Way and the community maintains an interest in how these segments are further utilized.

5.2.B.2. *Designated Special Ways*

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 (8) feet. Segments of Special Ways that are routinely traveled by automobiles may not have any physical characteristics to distinguish them from contemporary dirt roads. Such segments and their widths are noted as Special Vehicular Ways on a map entitled "Map of Special Ways, January 1, 2008." (Hereinafter "Map").The designated Special Ways are (unless otherwise noted, designations were made at a Special Town Meeting held on March 6, 2008. The descriptive map and lot numbers refer to Edgartown Assessors maps dated January 1, 2007):

a. Dr. Fisher Road (a.k.a. Willay's Plain Path) - beginning at the Edgartown-West Tisbury Road at the western edge of Map 22 Lot 2.1 and running northwest to the Manuel Correllus State Forest at the northern edge of Map 22 Lot 54 (Designated April 2000, Edgartown Assessors maps dated January 1, 1999).
b. Ben Tom's Road – beginning at the north side of Edgartown-West Tisbury Road between Map 28 Lot 6 and Map 21 Lot 96 and running northwesterly and northerly following the west fork to Pennywise Path along the southern border of Map 21 Lot 169.
c. Middle Line Path – beginning at Ben Tom's Road at the easternmost point of Map 21 Lot 133.1 and running northwesterly to its merging with Pennywise Path at the westernmost point of Map 22 Lot 125.20.
d. Pennywise Path – beginning at Tar Kiln Road and Three Cornered Rock Road and running easterly, across Whaler's Watch Way, to the northwestern point of Map 21 Lot 148.1, continuing easterly then northeasterly and ending at Edgartown-Vineyard Haven Road at the northeast corner of Map 21 Lot 36.33.
e. Tar Kiln Path – beginning at the Manuel Correllus State Forest between Map 10 Lot 96 and Map 11 Lot 1.143 running east to its intersection with Three Cornered Rock Road in the interior of Map 11 Lot 86.1.
f. Watcha Path – beginning at the northeast point of Map 25 Lot 4, west of the intersection of Edgartown-West Tisbury Road and Oyster-Watcha Road, extending westerly some 360 feet along a segment formerly known as Mill Path, then southwesterly to the northeast point of Map 40 Lot 4.2, continuing

southwesterly to the West Tisbury town line at the southern boundary of Map 40 Lot 6.

g. Dunham's Path (a.k.a. Dunham's Field Path, a.k.a. Daniel's Path) beginning at the southern side of Llewellyn Way adjacent to the Town-owned Edgartown Assessors' Map 28 Lot 54 running southeast to its intersection with Meshacket Road between Assessors' Map 28 Lot 16 and Lot 13 (2008).

h. Quenomica Road beginning at the northeast side of Meetinghouse Road at the westernmost point of Edgartown Assessors' Map 28 Lot 251 and running northeasterly to the west side of Meshacket Road, bisecting Edgartown Assessors' Map 28 Lot 224 (2008). A portion being a Special Vehicular Way located from Meshacket Road to a section called Five Corners or Bennett Road.

i. Swimming Place Path beginning at the southern side of the intersection with Meshacket Road and running southeasterly along the southwestern boundary of Edgartown Assessors' Map 28 Lot 225 and continuing southeasterly to the southernmost point of Edgartown Assessors' Map 28 Lot 30. (2008).

5.2.B.3. *Establishment of the Special Way Zone*

The area lying within twenty (20) feet of either side of the centerline of a designated Special Way shall comprise the Special Way Zone and be subject to the regulations herein.

5.2.B.4. *Development Regulations*

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

b. There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent the routine maintenance and repair of existing segments of Special Ways consistent with these Special Way regulations.

c. No Special Way shall be paved with impervious materials, except for segments that may be approved as crossings of a Special Way under 5.2.B.6.c). This provision is not intended to prevent the routine maintenance and repair of existing segments of Special Vehicular Ways consistent with these Special Way regulations.

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, except as permitted as part of a Special Permit issued under 5.2.B.6 or where:
   i. natural vegetation has been removed prior to December 1, 2007,
   ii. the width of a Special Way Zone extends beyond a pre-existing fence, or
   iii. the width of a Special Way Zone extends beyond a fence allowed under 5.2.B.4.f).

e. No fences, walls, structures, excavations, fill or obstructions shall be made, erected, placed or constructed within the Special Way zone. However, pre-existing, nonconforming constructions and clearings may remain but may not be expanded.

f. Notwithstanding 5.2.B.4.e. above, areas where the Special Way Zone encompasses building lots that are less than one acre in area may have fences erected on those lots within the Special Way Zone provided the fences are at least 50% transparent, such as a split-rail or picket fence and have the following minimum setbacks from the Special Way centerline.

Fence Setbacks for Parcels Less than One (1) Acre
Fences must be at least 50% transparent

	Fence Height	Setback from centerline
Along the Special Way	Less than 4’	5’ or 1’ outside the top edge of the physical Embankment alongside the Special Way, whichever is greater.
	4’ to 6’	10’
Along a Special Vehicular Way	Less than 4’	1’ outside the traveled width
	4’ to 6’	10’

g. The Special Ways are for non-motorized transportation and recreation only, except for those segments identified on the Map as Special Vehicular Ways or where active vehicular rights-of-way are found by the Planning Board after Public Hearing to have pre-existed the designation of the Special Way.

5.2.B.5. *Permitted uses in the Special Way Zone*

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 result in motor vehicle use of the Special Way segments, except for those segments identified on the Map as Special Vehicular Ways or other segments where active vehicular rights-of-way have been found by the Planning Board to have pre-existed the designation of the Special Way. The nature and extent of pre-existing vehicular use on such ways may not be increased without a Special Permit under section 5.2.B.6.

5.2.B.6. *Uses Requiring a Special Permit in the Special Way Zone*

a. Any uses permitted in the underlying zoning districts in which the Special Way Zone lies which result in motor vehicle use of segments of the Special Way not allowed as a permitted use under 5.2.B.5. Additional vehicular access (i.e. entrances or curb cuts) to any Special Way or an increase in the nature and extent of pre-existing vehicular use of such ways shall require a Special Permit. In the case where a Special Permit is sought to increase the vehicular use of a Special Way, the Planning Board shall first evaluate and determine if:
    i. alternate access is or might be available that could avoid vehicular use or increased vehicular use of the Special Way;
    ii. an existing access already serves the property; and
    iii. the location and width of the proposed access, its distance from other existing accesses, and the vegetation in the immediate surroundings are consistent with the purpose of this bylaw.
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 or by a utility or transmission line. 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 economically viable use and value of the parcel of land owned or controlled by the applicant, considered as a whole.
e. Where new roadways or other vehicular or utility right-of-ways, which encompass segments of any Special Way, are permitted or created by the

Town of Edgartown, provisions shall be made to ensure that the integrity of the Special Way remains, consistent with the purpose of this bylaw.

5.2.B.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 (5.2.B.1), whether the request is consistent with the intent of this bylaw, and whether the request will create conflicts with present or future uses of the Special Way. The Planning Board may grant a Special Permit for the use or alteration of a Special Way authorizing the way to be used or expanded to a width greater than twelve (12) feet only after the matter has been referred to the Martha's Vineyard Commission as a discretionary referral or otherwise for review as a Development of Regional Impact and only after the Commission has approved the application.

5.2.B.8. *Relocation of a Special Way*

Relocation of a portion of a Special Way may be approved by the Planning Board upon holding a public hearing and finding that the relocation would: preserve 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 by such action to either grant or extinguish public or private rights-of-way that may exist in the Special Way.

Edgartown
Special Ways
Special
Vehicular Ways
Pennywise Path
&
Ben Tom's Road
Measured Road Widths
as of January 1, 2008
Width Pinch-point
Turn-out *
Special Vehicular Ways
Width
9 feet
10 feet
11 feet
12 feet
14 feet
Trail
Special Way
Additional Features
Driveways
Other Dirt Road
Parcel Boundary
Road Right of Way
21 - 134.0 Map - Lot #
* Not included in width measurements
Edgartown-Vineyard Haven Rd
Penny Ln
Dark Woods Rd
Jeremiah Pond Rd
Clay Pit Rd
Hancock Way
Pennywise Path
Phillip's Way
Shady Oak Ln
North Bog Rd
Huckleberry Hill Ln
Ben Tom's Road
Old Purchase Rd
Old Purchase Way
Fishermen's Knoll Rd
Whippoorwill Way

Barnes Rd
Edgartown-West Tisbury Rd
Watcha Path
Oyster Watcha Rd
Oyster Pond Rd
Jennie Lane
Oyster Pond Ln
Width Pinch-point
Turn-out *
Trail
Special Way
Additional Features
Driveways
Parcel Boundary
Road Right of Way
25 - 13.0 Map - Lot #
*Not included in width
Special Vehicular Way
Width
10 feet
11 feet
12 feet
13 feet
14 feet
15 feet
16 feet
Edgartown Special Ways
Special Vehicular Ways
Watcha Path
Measured Road Widths
as of January 1, 2008

5.3. Special Places District.

5.3.A. Area

Sampson's Hill, Chappaquiddick
The land lying more than 90 feet above mean sea level.

5.3.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 waterbody.
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 by-law and the zoning rules and regulations of the Town.

5.4. Cape Pogue District.

5.4.A. 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.

5.4.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 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.

5.4.C. 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.

1. Fishing and shellfishing, including aquaculture
2. Forestry, grazing, and farming including but not limited to such crops a cranberries, marsh hay, seaweed, and beach grass.

3. Conservation of soil, water, plants, and wildlife
4. Outdoor recreation activities including swimming, boating, nature study
5. Hunting, trapping, and duck blinds
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.

5.4.D. Uses Requiring a Special Permit

1. Except as permitted under Section 5.4.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, out-buildings, boathouses, piers, recreational amenities, 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 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 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 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.
3. 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 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.
4. 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.

5. 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.

5.4.E. Prohibited Uses

1. 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.
2. More than one dwelling per lot is prohibited.
3. Non-municipal piers.

5.4.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 representative from each of the following organizations, appointed by that organization:
   a. Edgartown Conservation Commission
   b. Edgartown Board of Health
   c. Mass. Department of Environmental Management
   d. Mass. 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 Edgartown Selectboard [95])
j. Conservation/Wildlife Specialist (appointed jointly by Sheriffs' Meadow Foundation, Vineyard Conservation Society, and Vineyard Open Land Foundation)
k. Edgartown Police Department [96]
l. Edgartown Planning Board
m. Edgartown Marine Advisory Committee
n. Edgartown Harbormaster
o. Edgartown Shellfish Constable

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.

5.4.G **Enforcement [97]**

The Marine Advisory Committee, Shellfish Constable, Conservation Agent, Zoning Enforcement Officer, Chief of Police, and Harbormaster shall jointly establish, review, and promulgate rules with respect to wildlife and recreation management to carry out the Goals and provisions of this section, the intent of this Zoning Bylaw, and the Guidelines delineated in the MV Commission Decision Designating the Cape Pogue District as a District of Critical Planning Concern, as adopted in 1988 and as amended.

For purposes of this section, the office of the Edgartown Harbormaster, the office of the Edgartown Building Inspector, and the Edgartown Police Department, shall jointly and severally be authorized to administer and enforce special permits issued under this section, and all rules and regulations applicable to the Cape Pogue DCPC.

5.5. Katama Airfield and Conservation Area District.

5.5A. **Purpose**

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. 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. 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.

[95] Amended 2021, ATM, Article #76; Appointment Authority changed from Chappaquiddick Island Association.
[96] Amended 2021, ATM, Article #76; adding appointees from Edgartown Police Department, Edgartown Planning Board, Edgartown Marine Advisory Committee, Edgartown Harbormaster, Edgartown Shellfish Constable.
[97] Amended 2021, ATM, Article #76; adding section 5.4.G.

5.5.B. Area of the District

All land beginning at a line drawn from the mean lot 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 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 the same direction along the most southerly bound of 40 foot way on Map 44 and 45 to 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 along the southern bounds of Map 36 Lots 151.2, 147.3, 147.4, and 147.5; thence southwesterly for 100 feet; thence southeasterly for 200 feet, crossing Crocker Drive, westerly for 40 feet to the northwest bound of Map 45 Lot 35; thence 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 lot waterline 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.

5.5.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 regulation, 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

5.5.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

5.5.E. Prohibited Uses

1. The use of pesticides, herbicides, fungicides and chemical fertilizers is prohibited except for agricultural use on land greater than five 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.

5.5.F. Procedures for Permitted Uses

1. Every application for a permit for a use or structure in 5.5.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 By-law 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 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.

5.5.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 members of the Site Review Committee and may call meetings of the Committee. The Planning Board may make no final action on the application until receiving written reports from the Committee members or until 45 days has elapsed since the date the application was sent to them. 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.

5.5.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.

5.5.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 application for permits and Special Permits, and to propose additional wildlife management, land use, and recreation guidelines as appropriate.

1. Membership shall include one 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 organization.
3. The Committee shall be coordinated by the Planning Board.

5.5.J. Airfield Approach Zone

It is hereby declared that the existence of any airfield hazard endangers the lives and property of the uses 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.

5.5.J.1. Regulations in the Approach Zone

a. Runway Areas - No structure, antennae, platform, pole, chimney or man-made object of any sort, and no tree or vegetation of any sort higher than two feet will be permitted within 65' of the centerline of the runways for the entire runway length.
b. Clear Zones - No structure, antennae, 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.

    Allowable height of structures built beneath designated Clear Zones - One-twentieth 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.

5.5.J.2. Non-conforming Uses

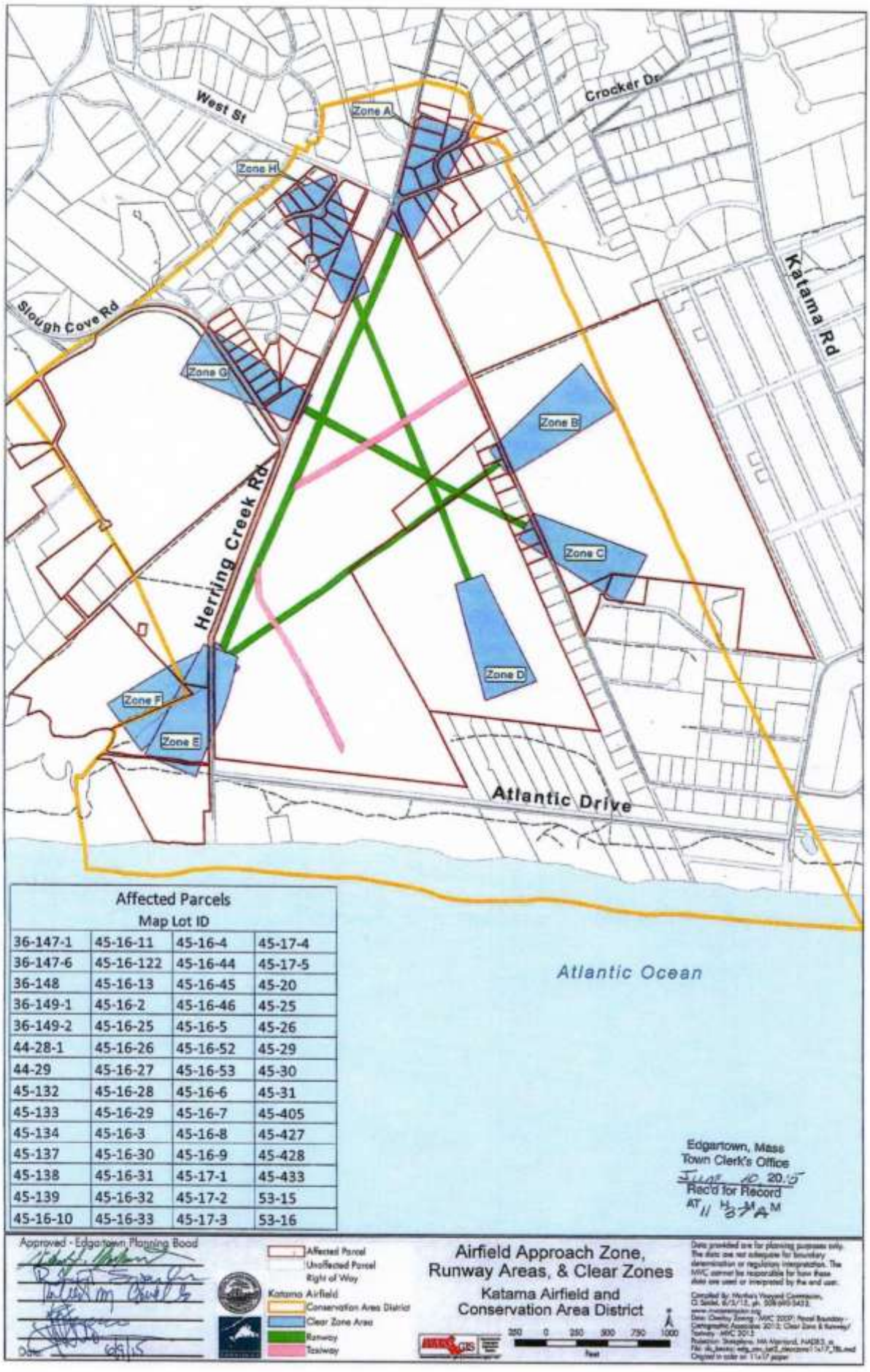
The limitations in this By-law shall not require the removal, lowering, or other change or alteration of any structure or tree not conforming to these regulations as of their

effective date or interfere with their continuing use. Nothing herein shall be construed to permit any such non-conforming structure or tree to be substantially altered or repaired, rebuilt, allowed to grow or replanted so as to become a greater hazard to air navigation than it was on the effective date of this By-law.

5.5.J.3. *Definitions:*

As used in this section of the By-law, unless context otherwise requires:

a. **"Airfield"** - the Edgartown Katama Airfield.
b. **"Airfield Approach 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.
c. **"Airfield Hazard"** - any structure or tree which extends into any airfield approach zone.
d. **"Clear Zone"** - the area perpendicular to the runway, including the airspace above the runway, 65' 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 1000 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 20 to 1 vertical rise.
e. **"Threshold"** - the beginning of that portion of the runway usable for landing.
f. **"Structure"** - any object or structure installed by man, including any object regulated or licensed under any other provision of law.
g. **"Tree"** - any tree or other object of natural growth.



Affected Parcels Map Lot ID			
36-147-1	45-16-11	45-16-4	45-17-4
36-147-6	45-16-122	45-16-44	45-17-5
36-148	45-16-13	45-16-45	45-20
36-149-1	45-16-2	45-16-46	45-25
36-149-2	45-16-25	45-16-5	45-26
44-28-1	45-16-26	45-16-52	45-29
44-29	45-16-27	45-16-53	45-30
45-132	45-16-28	45-16-6	45-31
45-133	45-16-29	45-16-7	45-405
45-134	45-16-3	45-16-8	45-427
45-137	45-16-30	45-16-9	45-428
45-138	45-16-31	45-17-1	45-433
45-139	45-16-32	45-17-2	53-15
45-16-10	45-16-33	45-17-3	53-16

Edgartown, Mass
Town Clerk's Office
Rec'd for Record
AT 11 32 AM

Approved - Edgartown Planning Board

Affected Parcel
Unaffected Parcel
Right of Way
Katama Airfield
Conservation Area District
Clear Zone Area
Runway
Taxiway

Airfield Approach Zone, Runway Areas, & Clear Zones
Katama Airfield and Conservation Area District

5.6. Edgartown Ponds Area District.

5.6.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, and
3. maintain scenic vistas.

5.6.B. Areas of the District

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 (1) lie within seven (700) hundred feet of mean high water of a coastal water body exceeding ten (10) acres in size (hereinafter "the ponds"), or the ocean or (2) lie within three hundred (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 (3) are water bodies which exceed ten (10) acres in size.

5.6.C. Establishment of Zones

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 (1) the ponds or ocean to (2) any wetland, coastal bank or inland bank, stream, dune or beach adjacent to or draining into the ponds or ocean, whichever is furthest inland.

Zone 2: All land within the District within 200 feet of the inland edge of Zone 1.

Zone 3. All land within the District outside the inland edge of Zone 2.

5.6.D. Definitions

Wetland: any fresh water or coastal wet meadow, marsh, swamp, bog, or vernal pool; an area of low lying topography where ground water, 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 the 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 U.S. 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.

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.

Wildlife: all non-domesticated 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 plans in the area which shall 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.

5.6.E. Consistency with Other Regulations

Section 5.6 is an overlay of the existing requirements and regulations of the underlying zoning district and is not intended to create a new zoning district. If the provisions of Section 5.6 conflict with the, requirements or regulations of the underlying zoning district or of Article 5, Article 6, Article 7, Article 8, or Article 9 of this Zoning By-law, then the stricter requirements or regulations shall prevail.

5.6.F. Permitted Uses and Structures

5.6.F.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.

5.6.F.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 Section 5.1.E.1-9 (Coastal District) of this by-law.
c. Non-habitable minor accessory structures normally used for personal family or household purposes subject to the regulations and restrictions of Section 5.1.E.1-9 and of the underlying zoning district.

5.6.F.3. Zone 3

a. Uses and structures permitted in Zone 1 and in Zone 2.
b. One guest house subject to the regulations and restrictions of the underlying zoning district and of Section 5.1.E.1-9 (Coastal District) of this by-law.
c. If inland of the inland edge of the Coastal District as defined in Section 5.1.A, then use and structures permitted by Article 2.5 (RA 120)

5.6.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.

5.6.G.1. Zone 1

a. Fabricated walks or trails and landings for private use.
b. Temporary seasonal floating docks.
c. Dams, changes in water courses or other drainage works only as part of an overall drainage plan constructed or authorized by a public agency except as stated in Section 5.6.F.1.f above.
d. The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provision of Chapters 872 and 874, Acts of 1972 and Chapter 91 of the General Laws.
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 Section 5.1.B.1.

5.6.G.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 Section 5.1.E (Coastal District).
c. A guesthouse subject to the requirements of the underlying zoning district and of Section 5.1.E (Coastal District).

5.6.G.3. Zone 3

a. If within the Coastal District as defined in Section 5.1.A, then uses or structures conditionally permitted by Section 5.1.D.
b. If inland of the inland edge of the Coastal District as defined in Section 5.1.A, then uses and structures conditionally permitted by Article 5.1.D (Coastal District).

5.6.H. Prohibited Uses

Except as may be necessary or incidental to a permitted use of to a use allowed by a Special Permit, the following activities are prohibited:

5.6.H.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.
e. Operation of personal watercraft
f. Operation of greater than 10 (ten) 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.
g. Operation of 2 stroke boat engines. This section does not apply to motors in use on these waters for craft duly registered before April 9, 2002.

5.6.H.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.
c. The use of synthetic products, such as fertilizers, herbicides, fungicides, insecticides, nematicides, rodenticides and/or other quick release chemicals.

Article VI, Surface Water District

6.1. Purpose

The purpose of this section 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.

6.2. Applicability

The provisions of this Bylaw shall apply to the following waters and govern construction and use in all water bodies and water courses 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 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.

6.3. Permitted Uses

Subject to the Rules and Regulations as are from time to time issued by the Harbor Master pursuant to the authority granted to him under MGL, c. 91 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 MGL, c. 40A the following uses are permitted in the Water District:

A. Hunting
B. Swimming, snorkeling, scuba diving, boating and their instruction
C. Fishing (all legal species and methods, commercial, family permit or for sport)
D. Launch Service
E. Charter boating and charter fishing
F. Anchoring and mooring
G. Aquaculture and shellfish propagation
H. Services to vessels and persons thereon initiated from a land based business or facility
I. Ferry service, sea/float planes and general commercial navigation
J. Federal, State or municipal aids to navigation
K. 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.

Also permitted are those used listed in MGL, c. 40A, s. 3, which cannot be prohibited.

6.4 Special Permitted Uses

Subject to the Rules and Regulations as are from time to time issued by the Harbormaster pursuant to the authority granted to him under MGL, c. 40A, the following uses may be allowed in the Water District by Special Permit from the Planning Board.

A. Boat Launch Ramps
B. Landing Facilities for Tour Boats, Charter Boats, Ferries and Private Launch Services

C. Marinas
D. Municipal
E. Piers and piles
F. Marine Biological and Oceanographic Research
G. Vessel Service Facilities
H. Temporary Uses
I. Underwater electric or communication cables and underwater fresh water pipes.
J. Salt Water intake or discharge pipes
K. 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. 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, the Edgartown Open Space Plan, and the Edgartown Harbor 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 location in marine or tidal waters and which therefore cannot be located inland (ref. MGL., c. 91, Waterways Law)

6.5. {removed}[98]

[98] Removed, ATM 2018, Article #63

Article VII – Floodplain Overlay District[99]

7.1 Purpose

The purpose for the Floodplain Overlay District is to:

A. Ensure public safety through reducing the threats to life and personal injury
B. Eliminate new hazards to emergency response officials
C. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
D. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
E. Eliminate costs associated with the response and cleanup of flooding conditions
F. Reduce damage to public and private property resulting from flooding waters

7.2 Establishment of the District

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within Edgartown designated as Zone A, AE, AH, AO, A99, V, or VE on the Town's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated July 20, 2016. These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 20, 2016. The effective FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspections Office, and Conservation Commission.

7.3 Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

7.4 Disclaimer of liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

7.5 Severability section

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

7.6 Designation of community Floodplain Administrator

The Town of Edgartown hereby designates the position of Building Inspector / Commissioner to be the official floodplain administrator for the Town.

7.7 Requirement to submit new technical data

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor
Boston, MA 02110

And copy of notification to:

[99]Previous Article 7 was struck and replaced with current text on by vote of Annual Town Meeting, April 11, 2023 (Article 14)

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation
251 Causeway Street
Boston, MA 02114

7.8 Variances to building code floodplain standards

Variances to the flood-resistant standards as found in the MA State Building Code may only be issued by the MA State Building Code Appeals Board.

Upon learning that an applicant intends to file for a variance from the State Building Code Appeals Board, the Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

7.9 Variances to Zoning Bylaws Related to Community Compliance with NFIP

Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP): A variance from these floodplain bylaws, when issued by the Zoning Board of Appeals, must meet the requirements set out by State law, and may only be granted if:

A. good and sufficient cause and exceptional non-financial hardship exist; **and**
B. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; **and**
C. the variance is the minimum action necessary to afford relief.

7.10 Permits Required for All Proposed Development in Floodplain Overlay District

The Town of Edgartown requires a Permit for all proposed construction or other development in the Floodplain Overlay District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains. Additionally any required federal permits must be obtained prior to the issuance of a development permit in the Floodplain District as follows:

A. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
B. Prohibit man-made alteration of sand dunes and salt marshes within Zone VE which would increase potential flood damage.
C. Provide that all new construction within Zone VE be located landward of the reach of mean high tide.
D. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

E. The Building Inspector shall deliver one copy of the development plan, in paper or electronic format, to the Conservation Commission, Planning Board, Board of Health, Highway Department, Building Inspector, Board of Appeals and Fire Department for comments which will be considered prior to issuing any applicable permits.

F. The Town's permit review process requires the applicant to obtain and submit documentation of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district.

G. RESERVED [100]

H. The most recent Elevation Certificate from the Federal Emergency Management Agency must be used to document elevations for all new construction and substantial improvements in the Special Flood Hazard Area.

I. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
In Zones A and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

J. For new construction and substantial improvements in the AO Zones, all floodplain permits granted under this section shall require that residential structures shall have the lowest floor elevated above the crown of the nearest street, or to the elevation required by the state building code, whichever is higher.[101]

K. All floodplain permits granted under this section shall be subject to the following provisions:
    1. All new and replacement utility and water facilities shall be located and constructed to minimize or eliminate flood damage.
    2. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On-site waste disposal systems are to be located to avoid impairment to them or contamination from them during flooding.
    3. Approval for any Alteration of a Land Form may be approved by the Building Commissioner with the consent of the Conservation Commission. No Alteration of a Land Form shall be permitted where there may be the liability of altering the drainage or run-off to the detriment of other landholders or the Town.

7.11 Permitted and Prohibited uses

A. ALLOWED USES. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and comply with other requirements:
    1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc. provided appurtenant structures meet requirements (a) in section 7.10 and (b) as laid out by the Federal Emergency Management Agency
    2. Forestry and nursery uses.

[100] Amended, 4/2024, ATM, Article #97.
[101] Amended, 4/2024, ATM, Article #97.

3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

B. PROHIBITED USES. The installation of Underground Storage Systems for the storage of petroleum products (including but not limited to oil, gasoline, kerosene, and any hazardous materials) shall be prohibited in the Special Flood Hazard Area (Zones A, AE, AH, AO, and VE on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the Town of Edgartown).

"**Storage system**" shall mean storage tank and all supply lines between storage tank and burner.

"Underground" shall mean under the surface of the earth or under pavement, including cement floors of cellars or basements. Storage systems may be located in basements or cellars provided they are on or above the paved floor of the cellar or basement and the cellar or basement existed prior to July 2, 1980, when the Town of Edgartown adopted its first FIRM and floodplain regulations.

7.12 Base flood elevation data for subdivision proposals

A. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
B. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that
    1. Such proposals minimize flood damage.
    2. Public utilities and facilities are located & constructed so as to minimize flood damage.
    3. Adequate drainage is provided.

7.13 Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

7.14 Watercourse alterations or relocations in riverine areas

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

A. Adjacent Communities, especially upstream and downstream
B. NFIP State Coordinator
    Massachusetts Department of Conservation and Recreation
    251 Causeway Street, 8th floor
    Boston, MA 02114

C. NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

7.15. Recreational vehicles

In A, AH, AO, AE Zones, VE, and V Zones, all recreational vehicles on a site must be fully licensed and highway ready at all times.

7.16 Local Enforcement

A. Administrative Official. It shall be the duty of the Building Inspector or their designee to administer and enforce the provisions of this bylaw. If the Building Inspector receives in writing a request for enforcement and declines to act, or if a person alleges a violation in writing to that office who declines to act, the Building Inspector shall notify in writing the party requesting action of his refusal to act and the reasons therefor within 14 days of receipt of such request.

B. Violations. The Building Inspector shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this bylaw, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

C. Prosecution of violation. If the notice of violation and order is not complied with promptly, the Selectboard shall authorize and/or institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation. Any person, firm or corporation violating any of the provisions of this bylaw shall for each violation, upon conviction thereof, pay a fine of $300. Each day that a violation continues to exist after notice to remove or correct the same shall constitute a separate offense. [102]

7.17 Definitions

The following definitions shall apply only to this section:

ALTERATION OF A LAND FORM means 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.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

[102] Amended 4/2024, ATM, Article #97.

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    1. By an approved state program as determined by the Secretary of the Interior or
    2. Directly by the Secretary of the Interior in states without approved programs.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

RECREATIONAL VEHICLE means a vehicle which is:

A. Built on a single chassis;
B. 400 square feet or less when measured at the largest horizontal projection;
C. Designed to be self-propelled or permanently towable by a light duty truck; and
D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - see **FLOODWAY**.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, AO, AH, V, VO, or VE.

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start

of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

VARIANCE means a grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Article VIII, Beach Area and Wetlands Regulations

8.1 Purpose and Definitions

The purpose of this section 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 meaning herein ascribed to them.

A. 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.
B. 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 salt water.
C. 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.
D. 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 salt water 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 dykes, causeways, or the like which may have divided the original marsh area into two or more sections.
E. 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 salt water or action of the oceanic tide.
F. Pond - Any body of water, other than a stream or the ocean, habitually more than 5,000 square feet in area.
G. 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.

8.2 Special Permit Required

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 Conservation Commission:

A. Obstructing, filling, dredging, excavation 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 shore line.

8.3 Duties of Planning Board and Conservation Commission.

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 Chapter 40A and Chapter 131, Section 40 respectively.

8.4 Beach Area Regulations.

Permits for building on or use of land within a beach area as defined in Sec. 8.1, shall be issued only in accordance with this section.

8.4.A Permitted Uses.

Use regulations elsewhere in this Bylaw notwithstanding, structures and premises in beach areas may be constructed or used only for the following purposes, unless granted a Special Permit under Section 8.4.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. One or more additions totaling 10% or less of the floor areas of any building as existing at the time of adoption of this section as determined by the Building Inspector.[103]

8.4.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 purposes of Section 8.4.A, to assure continued dune stabilization, to maintain the ecological integrity of beach area, and to reduce the likelihood of hazards for health or safety.

1. Non-residential buildings or structures to be used only in conjunction with fishing, shellfishing, the growing, harvesting and storage of crops raised on the premises, and boathouses.
2. Dams, changes in water courses or other drainage works only as part of an overall drainage plan constructed or authorized by a public agency except as stated in 8.4.A.5, above.
3. The superficial clearing of areas of private beach and the filling or replenishment thereof in conformity with the provisions of Chapter 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.

8.4.C. **Prohibited activities.**

Uses other than those allowed or allowed on Special Permit in sections 8.4.A. and 8.4.B. above are prohibited. Unless necessarily incidental to a use allowed under 8.4.A., the following activities are prohibited:

1. Filling, placing or dumping 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 substances.
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.

[103] Amended 4/2024, ATM, Article #97.

Article IX, Cluster Developments

9.1. Purpose.

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 Bylaw and allowing Cluster Development in the form of multi or single family units.

9.2. Special permit.

After notice and joint public hearing with the Board of Health, the Planning Board may grant such a Special Permit provided that:

A. That in no instance shall the density exceed that specified in Section 9.3 of this bylaw.
B. Tracts not having access to publicly available water and/or sewerage must provide on-lot systems that will insure adequate protection to the water table's purity.
C. The usual setback and frontage requirements shall be met, except that no proposed dwelling shall be within 50 feet of the Cluster development's boundary; however the setback and frontage requirements may be waived by the Planning Board.
D. 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 non-profit organization the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of the lots or residential units within the plot. If such a corporation or trust is utilized, 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.
E. 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 in the maintenance Expenses.

9.3. Number of dwelling units.

A. The number of dwelling units allowed in a Cluster Development shall equal 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 equals the total area of the tract of land proposed for development minus land subject to either inland or coastal wetland regulations (MGL Ch. 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 zoning district, the number of units allowed shall be calculated as 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 multi-family structure may be considered as 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 covenants and through ownership or management involvement of a non-profit or limited dividend organization.

9.4. Additional 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.

9.5. Preparation of application.

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.

9.6. Plans and information to be submitted.

A detailed plan, illustrating all natural and topographic features together with the proposed development, location of sites, buildings and related facilities shall be submitted, along with a detailed written statement describing the intent of the developers in such detail as the Board of Appeals shall require. 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. Within ten days of the receipt of the plan the Board of Appeals shall transmit a copy thereof, provided by the developer, to the Planning Board. The Planning Board shall investigate the proposed layout and report in writing its recommendations to the Board of Appeals prior to the hearing on the Special Permit by the Board of Appeals.

9.7. Guidelines for approval.

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, agriculture; in utilizing natural features of the land; in allowing more efficient provisions of street, utilities and other public services; and at least equal to a conventional plan in other respects.

As guidelines, the Planning Board shall consider if the proposed cluster development:

A. preserves natural landscape in large contiguous areas enhancing the likelihood of continuation of existing eco-systems;
B. minimized driveway openings through streets, or near street intersections;
C. minimizes extensive topographic change necessitating vegetation and tree removal;
D. preserves scenic views from public ways;
E. provides contiguity with preserved open space for large proportion of the lots having reduced lot areas;
F. varies in lot sizes and building arrangements;
G. 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;
H. enhances the character of the neighborhood in which the tract lies;

I. is consistent with expected future development or to any master plan in existence.

9.8. Issuance of special permit.

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 Bylaw and of Chapter 40A of the General Laws have been met.

Article X, General Regulations

10.1. Lots and Structures

10.1.A. 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 bylaw and shall be in accordance with the Subdivision Regulations of the Town of Edgartown.

The subdivision of a parcel of adjacent parcels in any district shall not exceed ten (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 Bylaw in any 12 month period. This provision shall apply to all subdivisions within the Town even if approval under the Subdivision Control Law is not required.

Subdivisions in excess of ten (10) lots may be allowed without special permit of the Planning Board provided the owner thereof covenants with the Planning Board that he will not convey or build upon more than ten lots in any twelve month period. The covenant shall identify the lots that may be conveyed or built upon in each twelve month period.

Subdivisions in excess of ten (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 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 sewer, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, the housing for senior citizens and people of moderate income.

10.1.A.1 *Relation to Real Estate Assessment.*

Any land owner who has been denied a development permit because of these provisions may appeal to the Board of Assessors, in conformity with M.G.L. Chapter 59 Section 59 for determination as to the extent to which the temporary restriction 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.

10.1.A.2 *Zoning Change Protection.*

The protection against subsequent zoning change granted by M.G.L., Chapter 40A, Section 6 to land in a subdivision shall, in the case of a development whose completion has been constrained by Section 10.1.A, or subject to the covenant as provided in Section 10.1.A, 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.

10.1.A.3. *Frontage.*

All lots created after April 9, 1985 will have a minimum frontage of 50 feet on a street.

10.1.B. Principal buildings on same lot.

No lot in R-5, R-20 or R-60 Districts shall contain more than one principal building or structure

10.1.C. Height of buildings; elevated decks and porches.

10.1.C.1. Height of Buildings and Exception [104]

The height of any structure created in any district shall not exceed thirty-two feet for a Pitched Roof or twenty-four feet for 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.

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 be overshadowing or loss of privacy, and that utility and protective services will be adequate. Height shall be measured as the vertical distance from Mean Natural Grade to the highest point of the roof.

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.

10.1.C.2. Elevated Decks & Elevated Porches

a. Definition: For the purpose of this bylaw, an elevated deck or elevated porch is any accessible walking surface larger than 8' in any dimension, and more than 7'-6" above the Mean Natural Grade.
b. Permitted Uses:
    i. They shall be constructed entirely above gross floor area including first floor porches and decks (not patios or terraces on grade.)
    ii. 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 porches not meeting these criteria may be granted a special permit by the Special Permit Granting Authority provided that the proposed deck or 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.

10.1.D. Corner clearances.

In no district shall any buildings or new fencing be built or old fencing repaired beyond three and one-half 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 three and one half feet and eight feet at such locations. The heights as herein mentioned are to be taken as meaning the heights above the adjacent level.

10.1.E. Curb cuts and driveways.

In the R-5, B-I and B-II districts, there shall be a maximum of one 16’ wide curb cut per lot on a public street. A curb cut shall not exceed 16’ in width. All new curb cuts, or modifications to existing curb cuts after January 7, 2014 shall require approval by the Planning Board. The curb cut design, or its regular use, shall not impair access along the public street or sidewalk.[105]

10.1.F. Conversion of existing 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 Section 10.1.G. Change of use within any existing

[104] Amended 2021, ATM, Article #77
[105] Amended 2018, ATM, Article #64

structure, whether involving physical conversion or not, shall be subject to the same zoning regulations as apply to new structures. When a special permit is required the Special Permit Granted Authority shall adhere to the requirements of Section 10.1.G.

10.1.G. Nonconforming structures and uses.

1. Any structure or lawful use of any structure or premises or part thereof existing at the time of adoption of this bylaw or an amendment thereto may be continued notwithstanding the fact that it may not conform to these regulations.
2. This section of the Zoning Bylaw shall apply to the following:
    a. Any change or substantial extension of a nonconforming use;
    b. Reconstruction, extension or structural change of a nonconforming structure;
    c. Any alteration of a structure, begun after the first publication of notice of public hearing of the Bylaw to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
    d. A building or construction permit, Permit or Special Permit issued after the first publication of notice of public hearing of the Bylaw;
    e. 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;
    f. Abandonment: A nonconforming use which has been abandoned for a period of two years shall not be reestablished and any future use shall conform with the Bylaw;
    g. Changes: once changed to a conforming use, no structure shall be permitted to revert to a nonconforming use, except where this Bylaw makes provision for Permit consideration;
    h. 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 Bylaw requirements in effect when the work was done.
3. 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 of a 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 10.2.A - Conditionally Permitted Uses.
4. 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 where, in the opinion of the Board, such expansion will not be more objectionable to, or detrimental to, the character of the neighborhood than the original preexisting nonconforming use or structure.
5. 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 the zoning bylaw; 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 expansions, 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.

6. 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 the zoning bylaw; 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.
7. On any non-conforming residential lot with an area of at least at least 6,500 square feet, minor structures accessory to a dwelling shall be permitted by right only as follows:
    - One structure per lot that is 100 square feet or less, and designed for utility or storage.
    - One structure per lot that is 220 square feet or less, is designed for storage of a single motor vehicle, has a single garage door, and not more than one 'walk-out' door with an opening of 36 inches or less.

   Structures permitted under this section shall not have more than one level, shall not be more than ten feet in height from Mean Natural Grade, and shall not be served by heating, air conditioning, potable water service, or wastewater service. Structures permitted under this section shall otherwise conform to all statutory and Bylaw requirements.

   Structures on non-conforming lots exceeding these criteria shall require a special permit from the appropriate Special Permit Granting Authority.

   This section [10.1.G.7] shall only apply where it does not conflict with any other section of this Zoning Bylaw, or any other applicable code or statute.[106]

10.1.H. **Temporary structures and uses.**

Temporary structures and uses, if conforming to this bylaw, shall be allowed subject to the same restrictions as permanent ones. Temporary structures not conforming to the requirements of this bylaw 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 months or less and may be renewed only once, and only upon reapplication to the Board of Appeals.

10.1.I. **Demolition delay.**

10.1.I.1. *Purpose:*

The purpose of this section is to establish a predictable process for reviewing requests to demolish residential structures in order to:

[106] Amended 2021, ATM, Article #78. Added Section 10.1.G.7

a. establish an appropriate waiting period to consider alternatives to the demolition of a building of residential value;
b. minimize the quantity of demolition debris;
c. create an incentive for reuse of residential structures;
d. to give interested parties in the affordable housing community an opportunity to acquire reusable residential structures.

10.1.I.2 *Issuance of Demolition Permit.*

The requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes or regulations applicable to the demolition of buildings. No demolition permit shall be issued for a residential structure, unless:

a. It is determined that demolition is necessary, pursuant to section (F) below, or
b. The structure has been offered to the Dukes County Regional Housing Authority (DCRHA) or its assigns and has not been accepted, or
c. The structure has not been removed by the DCRHA or its assigns within sixty days after agreement was reached between the DCRHA and the owner, or within such other time as mutually agreed upon.

10.1.I.3 *Procedure:*

a. An application for a demolition permit shall be made to the Building Inspector and signed by the owner of record or owner's agent. The demolition delay periods required by this section shall run concurrently with any other reviews.
b. The applicant shall send a copy of the application, by certified mail, to the DCRHA and notify the Building Inspector of having done so.
c. The DCRHA shall have thirty days from receipt of the owner's notification to determine whether it or its assigns want the structure, to make arrangements with the owner for its removal, and to so notify the Building Inspector. Such arrangements shall include a commitment to remove the structure within sixty days or such other time as mutually agreeable. If no arrangements and notification are so made, the Building Inspector may issue a demolition permit.

10.1.I.4. *Issuance of Building or Occupancy Permit.*

The Building Inspector may issue a building permit for a new structure on the site for which a demolition application has been filed only after either: 1) arrangements, satisfactory to the Building Inspector, to move the old structure in a timely manner have been made, or 2) a demolition permit has been issued in accordance with this section.

10.1.I.5. *Demolition in Violation of the Section.*

If a residential building is voluntarily demolished in violation of this section, no building permits shall be issued for new construction, nor shall any occupancy permit be issued, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control. The owner or owner's agent shall be responsible for properly securing the building during the time that it is subject to demolition delay pursuant to section C above. If the owner or owner's agent fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.

10.1.I.6. *Required Demolition or Repair.*

Nothing in this section shall restrict any authority in the general laws for the Building Inspector to order the building owner, or the town, to demolish a building at any time

it is determined that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety. Nothing in this section shall restrict any authority in the general laws for the Building Inspector to require the owner or owner's agent to take reasonable action to prevent the need for required demolition of a significant building, which may include reasonably securing the building and making it safe so that it does not present an imminent and substantial danger to the public.

10.1.J **Common Driveways**[107]

The use of common driveways to provide access may be allowed through the issuance of a Special Permit. The Planning Board shall serve as the Special Permit Granting Authority (SPGA).

All lots associated with the use of a common driveway must provide parking that does not impede or restrict access along the common driveway, in accordance with the criteria established by this Bylaw.

The Town shall not be required to provide construction, reconstruction, maintenance, or snow plowing services, nor provide school bus pick-up, or regular police patrols along a common driveway. The Town shall have in all cases right of passage along the common driveway to respond to emergencies or calls for assistance.

Generally, common driveway design shall, to the greatest extent possible, support the following goals:

- reduce the overall number of curb-cuts onto public ways, preserving the rural character of the Town;
- provide for appropriate sightlines;
- provide safe access to and from public ways;
- minimize adverse impact to wetlands, farmland, or other natural resources;
- allow reasonable, safe, and less environmentally damaging access to lots characterized by slopes or ledges; and
- retain existing vegetation and topography.

The SPGA may establish general conditions for approval of common driveways as it determines are necessary to serve the public interest, and which are in harmony with the purposes and intent of this Bylaw.

The SPGA may impose additional conditions on a case-by-case basis, based on site conditions, site orientation, and lot line configuration.

10.1.K **Tree Yard Protection and Clear Cutting Regulation** [108]

1. The intent of this section is to preserve and protect large trees on portions of private property. [109] Trees are recognized for their abilities to improve air quality, protect from glare and heat, reduce noise, aid in the stabilization of soil, provide natural flood and drainage control, create habitats for wildlife, enhance aesthetics and property values, contribute to the distinct character of certain neighborhoods, and provide natural privacy to neighbors.
2. For the purposes of this section, the Reviewing Agent will be the Edgartown Building Inspector or their designee.
3. In any residential district, it is prohibited to remove a Protected Tree from the Tree Yard of a lot
    a. Within 24 months of an application for division of a lot into two or more parcels, where the protected trees are within the Tree Yards of the resulting parcels.

[107] Added by Town Meeting, April 9, 2019, Article #71.
[108] Amended 2025, ATM #80
[109] Amended 2025, ATM #80; previously: "The intent of this section is to preserve and protect sizeable trees on portions of private property"

b. Within 12 months of an application for the demolition of, or a building permit for any structure with a footprint of 240 square feet or greater;
c. Within 12 months of construction of any building or structure on a vacant lot; or
d. Within 12 months of construction of one or more structures or additions to structures on a lot that increases the Gross Floor Area by 50% or greater, excluding basements, open or screened porches and decks.

4. The requirements of this Section 10.1.K shall not apply to:
   a. Removal of trees which is necessary and incidental for construction or maintenance of structures, septic systems, and wells for which permits (including foundation permits) have been obtained and are in effect;
   b. Removal of trees by a property owner in accordance with a written request made by the applicable property insurer;
   c. Trees on land owned by public and/or private conservation organizations and on land protected by conservation restrictions;
   d. Forest cutting practices, pursuant to G.L. Ch. 132, on land devoted to forest purposes covering half an acre or more;
   e. Any tree removal undertaken in compliance with a Forest Management Plan approved and in effect pursuant to G .L. Ch. 61 ;
   f. Any tree removal associated with maintaining or restoring native ecological habitats;
   g. Widening, repair and maintenance of private roads or public roads within town-approved roadway layouts and easements;
   h. Ordinary maintenance of or improvements made to public utilities;
   i. New or existing active commercial operation of agricultural, silvicultural and horticultural uses. including (but not limited to), tree nurseries and orchards;
   j. Ordinary maintenance or removal of trees undertaken to prevent or reduce the risk of fire pursuant to an order of the Edgartown Fire Department or in accordance with the Dukes County Wildfire Protection Plan;
   k. Removal of Invasive Species;
   l. Those areas of property under the jurisdiction of the Wetlands Protection Act (Chapter 131 and 310 CMR) and/or the Edgartown Wetlands Protection Bylaw;
   m. Public Shade Trees pursuant to Chapter 87 of the General Laws;
   n. Emergency projects necessary for public safety, health and welfare;
   o. Trees severely damaged as the direct result of a natural disaster;
   p. Trees that are dead, hazardous, or pose a significant risk of harm to people or adjacent structures or public or private roads, driveways or parking areas
   q. Trees currently infected by a disease or insect infestation of a permanent nature, as determined in writing by a Certified Arborist, a licensed forester, or the Town Tree Warden; and
   r. Trees authorized for removal pursuant to a special permit issued by the appropriate Special Permit Granting Authority.
5. Clear Cutting shall not be allowed without a special permit after public notice and hearing conducted in accordance with G.L. Ch. 40A, Section 11 and Section 17 of this Bylaw. For the purposes of this Section 10.1.K, the Planning Board shall be the Special Permit Granting Authority.
6. An applicant for a special permit under this Section 10.1.K shall submit detailed site plans, which shall include topography, wetland areas and floodplain areas, plans and elevations of all structures, location of utilities, access roads and paths, septic systems and water supply facilities, and an inventory of the number, types, sizes and spacing of all trees proposed to be removed whose DBH measures four (4) inches or more, the number, types, sizes, and spacing of trees to be retained

whose DBH measures four (4) inches or more, the method for protecting such trees during the tree removal or related construction if applicable, and the number, types, sizes and spacing of all trees proposed to be added, if applicable. Such plans shall be at scale sufficient to determine compliance with this Section 10.1.K. The applicant shall also provide a brief explanation as to the reason for the tree removal. The Zoning Enforcement Officer or designee shall perform a site inspection prior to the issuance of a special permit.

7. The owner of any property on which there has been a violation of the provisions of this Section 10.1.K shall be subject to a fine of $300 per day, pursuant to G.L. c. 40, Section 21 D, with each day that the violation continues being deemed a separate offense, from the date when the Zoning Enforcement Officer first learns of the violation and notifies the violator in writing in accordance with the applicable notice requirements, or from the date of the violation if such date is known to the Zoning Enforcement Officer, until detailed site plans have been filed as provided in Section 10.1.K.6 and approved by the Planning Board. The property owner shall not be subject to fines pursuant to this section if a trespasser has removed one or more of the trees on the property.
8. All new trees planted pursuant to Section 10.1.K.6 shall be maintained in good health for a period of no less than twenty-four months from the date of planting. If any such tree shall die within such twenty-four (24) month period. The owner of the property shall be responsible for replacing such tree with a tree equal to or greater than the size of such tree at the date of installation; and the replacement tree shall be planted within nine (9) months of the death or removal of the tree being replaced.

10.1.L **Reserved.**

10.1.M **Residential Lot Intensity** [110]

10.1.M.1. *Purpose and Intent*

Recent patterns in residential development reflect a trend towards larger residential structures and multiple accessory structures, thereby maximizing lot coverage and environmental impacts by disturbing more land area, altering the flow of stormwater and recharge of groundwater, threatening habitats, and typically consuming more energy and water. Accordingly, this bylaw establishes parameters for the design and construction of residential buildings in a manner that does not overwhelm Edgartown's character as a seaside community while promoting responsible use of building materials.

10.1.M.2. *Limitations on Residential Structures and Exceptions*

The following shall apply in all zoning districts.

a. Gross Floor Area: Subject to the exceptions noted below, any new construction for residential structures or additions to existing residential structures, shall not, upon completion, result in an aggregate amount of Gross Floor Area in excess of 10,000 square feet (SF), provided, however that this may be increased to a maximum of 12,000 square feet of Gross Floor Area if:
    i. the only fossil fuel use for the buildings on the lot is to power a back-up generator;
    ii. all buildings on the lot are either connected to Town sewer or use an enhanced nitrogen removal septic system; and
    iii. all driveways and parking areas use permeable surfaces.

[110] Added 04/2024, ATM, Article #96.

b. The limits set forth in subsection (a) of Gross Floor Area shall not apply to the following:
   i. all accessory structures used exclusively for agriculture; or
   ii. Cluster developments permitted under Article IX.

c. Notwithstanding the definition of Gross Floor Area contained in Section 1.3, Definitions, for the purposes of determining Gross Floor Area under this Section 10.1.M, the calculation shall include attics and unfinished basements (provided the ceiling height satisfies the State Building Code requirement for habitable space), and screened porches with closable louvers, but shall exclude gazebos with open sides, screened porches without closable louvers, and other similar structures whose sides are open to the weather.

10.1.M.3. *Special Permit Procedures to Exceed Gross Floor Area Limits*

a. A special permit may be issued, by the Planning Board as the Special Permit Granting Authority, to exceed the limit set forth in 10.1.M.2.

b. Special Permit Criteria

In its review of an application for a special permit, the Planning Board shall consider the application's adherence to the following guidelines; that is, whether:

i. the completed project would be visible, at any time of year, from public ways, water bodies, cemeteries, and neighboring properties, and if so whether:
   a. the impact of the project on the existing scenic character of the site and its surroundings has been mitigated through building siting, building design, and landscape design;
   b. natural buffer areas have been retained to provide landscape screening; and
   c. the project minimizes the impact of all lighting and glare from windows and reflective materials.

ii. the project protects the natural features of the site and restores or retains the site's natural landscape after completion of construction;

iii. the project avoids altering the natural landscape and significant adverse impact on habitat, it minimizes the size of lawns and recreational facilities, uses native species for landscaping and retains natural vegetation on slopes;

iv. The project minimizes reliance on irrigation;

v. the project minimizes alteration of the lot’s topography and executes grading and excavation so that the contours of the land are relatively the same following construction as those previously existing on the site and adjacent to it;

vi. the project preserves and protects natural features of the site such as scenic points, water courses, large trees, historic spots, traditional stone walls, significant rocks and boulders, and similar community assets;

vii. the project incorporates measures to mitigate excessive negative water quality impacts on ponds, wetlands, and streams during and after construction;

viii. The project is designed to minimize fossil fuel use, such as by incorporating energy efficiency, conservation techniques, and using renewable energy sources; and

ix. the project protects and preserves historical and archeological resources.

10.1.M.4 *Determination By Building Inspector*

The Building Inspector will determine the square footage of all projects and the applicability of the Gross Floor Area limits. If the Building Inspector determines that a special permit is required, the Building Inspector will refer the project to the Planning Board, where the applicant can seek a special permit if they choose to proceed as designed. A building permit will not be issued without the special permit and the accompanying documentation used in granting the special permit. If the Building Inspector determines that the final plans differ significantly from the preliminary plans used during the special permit granting process, the Building Inspector will send the project back to the Planning Board for additional review.

10.2. Uses

10.2.A. **Conditionally permitted uses.**

The Special Permit Granting Authority may grant any applicant therefor a special permit to make use of his land or to erect or maintain structures thereon for the purposes stated in this Bylaw under Conditionally Permitted Uses.

10.2.A.1. *General Criteria.*

The Board shall grant such a Special Permit only if, after public notice and hearing in accordance with MGL Chapter 40A, Section 11, the Board finds that the specific site is an appropriate location for such uses, that such uses will not adversely affect the neighborhood and that adequate and appropriate facilities and protection will be provided such as, without limiting the generality of the foregoing, parking facilities and screening of unsightly uses from public view.

10.2.A.2. *Small-scale businesses and industries in Residential Districts.*

In addition to the requirements of subsection 10.2.A.1, special permits for small-scale businesses and industry in residential districts shall be granted only if the following requirements are also met:

a. There shall be no more than four employees employed on the premises who are not also resident there.
b. Traffic generated shall not exceed the volume normally expected in a residential neighborhood.
c. Sufficient off-street parking will be provided, and this parking arrangement will require no backing out onto the public right-of-way.
d. All outdoor parking, storage, loading and service areas will be screened from the view of the public road and from adjacent residences.
e. 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.
f. The use will not cause continued erosion of the land or increased surface drainage from the lot.
g. 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.
h. Where possible, the site design will preserve trees, water courses, hills, and other natural features, and enhance vistas, ocean views, and historic locations, and will minimize the intrusion into the character of existing development.
i. Small-scale business and industrial activities in the residential districts shall take place in residential structures or in structures similar in character to residential dwellings.

10.2.B. Mobile homes and recreational vehicles.

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:

1. With the permission of the Building Inspector, mobile homes or similar facilities may be
    a. Parked or stored for not more than 14 days; or
    b. Used as an office or for storage in connection with a construction project.
2. A nonconforming mobile home or similar facility existing at the time of the passage of this Bylaw may not be replaced for any reason despite any other provisions of this Bylaw.
3. Recreational Vehicles may be:
    a. Parked or stored on the property of the owner's residence or;
    b. By permit from the Building Inspector used as a temporary residence for a period not to exceed 14 days provided that all requirements of the Board of Health are met.

10.2.C. 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 M.G.L. Chapter 140, Sections 57 and 58.

10.2.D. Accessory scientific uses.

Uses as permitted by M.G.L. Chapter 40A, Section 9.

10.2.E. 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 Article 10.2.A and Article 11.4 of this Bylaw.

10.2.F. Conversion of transient residential facilities.

The conversion of a pre-existing, non-conforming 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.

10.2.G. General development regulations.

1. 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.
2. General Design Requirements. The following shall apply to all new nonresidential and nonagricultural development resulting in six or more off-street parking spaces or more than 1,000 sq. ft. Gross Floor Area. Site development shall provide for access to each structure for fire and service equipment, and shall provide for storm water 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:
    a. Improve environmental consequences by reducing the volume of cut and fill, reducing the number of removed trees 4" trunk diameter and larger, reducing the area of wetland vegetation displaced, reducing the increase in peak storm water flow from the site, reducing soil erosion, or reducing threat of air or water pollution;

b. Improve pedestrian or vehicular safety and convenience within the site and egressing from it; and
c. 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 reducing glare from headlights or area lighting.

10.2.H. Trash.

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.

10.3. Housing

10.3.A. Multi-unit dwellings [111]

A Multi-Unit Dwelling shall be allowed in all residential zones by special permit from the Planning Board as long as the following conditions are met:

1. Each multi-unit dwelling does not exceed six (6) units in a single building except in accordance with Section 10.3.F Staff housing.
2. Exterior Design: The exterior design of a building containing multi-unit dwellings shall 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.
3. Parking: Any parking and/or driveway areas serving a multi-unit dwelling shall have permeable surfaces.
4. Sewer/Septic: The multi-unit dwellings must be connected to and served by Town sewer or an enhanced nitrogen removal septic system. If the buildings are served by an enhanced nitrogen removal septic system, Applicant must obtain confirmation from the Board of Health or its agent that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. If the property is served by Town sewer, Applicant shall obtain confirmation from the Wastewater Department that adequate capacity is available to serve the multi-unit dwellings. The multi-unit dwellings shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot.
5. Deed Restriction: The owner of property seeking permission to develop multi-unit dwellings shall, prior to the issuance of said permit, present to the Building Inspector in a form acceptable to Town Counsel a deed restriction or covenant affecting the title to the property on which the multi-unit dwelling is located and which shall ensure that all of the units shall either be owner-occupied or occupied and rented on a year-round basis, shall not be used as a short-term rental as defined by G.L. c. 64g, and shall not be used as a Time Sharing or Time Interval Ownership Dwelling unit as defined by the Zoning Bylaw. Said deed restriction or covenant shall indicate that it is enforceable by the Town of Edgartown. Proof of recording of said deed restriction or covenant at the Registry of Deeds or Land

[111] Amended ATM 2024, Article 92, removing restriction of multi-unit dwellings to Cluster Developments, and allowing multi-unit dwellings by special permit in all residential zones.

Court Registry District shall be presented to the Building Inspector prior to the issuance of an occupancy permit for the multi-unit dwelling.

Compliance with these requirements shall be a condition of any special permit issued.

10.3.B. Assisted housing.

10.3.B.1. *Purpose and Intent*

This bylaw is established in order to achieve the following public purposes:

a. 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.
b. To provide structures designed and adapted to meet the need of the senior and disabled population.
c. 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.
d. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

10.3.B.2. *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 bylaw, senior person shall mean a person aged 60 or older and a disabled person shall mean a person with a physical or mental impairment that substantially limits one 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:

a. Common group areas for dining and food preparation; libraries, indoor and outdoor recreation facilities and gardening areas are encouraged.
b. Bedrooms or suites for residents
c. Separate or shared bathroom facilities
d. Living quarters for support staff

10.3.B.3. *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 the Bylaw, provided that the following standards and criteria are met:

a. 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.
b. Size: A new structure built as assisted housing shall be no more than 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 10%.
c. 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 space, other similar rooms for the use of the residents and staff, and separate living quarters for support staff.

d. 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 restriction, running with the land. Failure to comply with these residency limitations may be penalized by injunction rendering the facility unrentable, unsalable, or uninhabitable.

e. 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 (State Sanitary Code) be exceeded.

f. Parking: Parking facilities shall be provided in a ration adequate for the proposed assisted housing, with no more than one space for each bedroom. In all cases the parking will be off-road and screened.

g. 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.

h. Site: 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.

   The building shall be sited to preserve the integrity of drinking water, ground water 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 feet in height within five years of planting. Such buffer strips shall be maintained and replanted as necessary with replacement vegetation which will grow to a comparable height. Planting 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.

i. 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, streetscapes, lighting, walkways, trash, mail boxes, 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.

j. Need: The Zoning Board of Appeals must be convinced a need within the town exists so as to prevent vacant residential structures. Information gathered from the U.S. 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 section 17.7 of the bylaw and of MGL Ch.40A have been met.

10.3.B.4. *Application Procedures*

The procedure for submission for approval of a special permit for assisted housing shall be the same as prescribed in Article IV the Planned Development District of the Edgartown Zoning Bylaws, with the exception that the Zoning Board of Appeals is the special permit granting authority and their rules and regulations shall supersede this bylaw.

10.3.C. Island independent living.

10.3.C.1. *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.

10.3.C.2. *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.

10.3.C.3. *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 Bylaw, provided that the following standards and criteria are met:

a. 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 roof, 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.

b. Size: New structures built as island independent living shall have not more than four living units in a building and each building shall have no more than 3,800 gross square feet. Conversion of an existing structure shall not increase the gross square footage of the existing structure by more than 10%.

c. 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 5 sewage regulations be exceeded.

d. 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. Should the property owner request an occupancy waiver prior to ten (10) years, the Zoning Board of Appeals may grant such waiver if, in the opinion of the Zoning Board of Appeals, the need no longer exists and the building is no longer occupied by the original applicant due to death, financial hardship or such other reason as the Zoning Board of Appeals deems valid. Should the Zoning Board of Appeals grant such occupancy waiver, either before or after the ten (10) year period, it shall be subject to the following conditions:
    i. The property shall remain a single family property and neither unit on the Property may be rented separately from the other unit; and
    ii. The Property may never be subdivided to create a separate lot; however this shall not restrict the owner from making minor lot line adjustments with abutting properties.

   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.

e. 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.

f. Parking: Parking facilities shall be provided in a ratio adequate for the proposed dwelling units, with no more than one space for each bedroom. In all cases the parking will be off-road and screened.

g. 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.

h. 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 or 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, ground water 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.

i. 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, streetscapes, lighting, walkways, trash, mail boxes, 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.

j. Need: The Zoning Board of Appeals must be convinced a need within the town exists so as to prevent vacant buildings. Information gathered from the U.S. 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 an island independent living facility 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 section 17.7 of the bylaw and of MGL Ch.40A have been met.

k. Family apartment exception: One 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 Bylaw, without a special permit if:

i. The only other dwelling unit on the property is a single family dwelling; there is no guesthouse, and
ii. The single family dwelling has been in existence for at least five years, and
iii. The new "family apartment" does not add to the footprint of the existing structure in which it will be built, and
iv. The "family apartment" is less than 600 gross square feet, and
v. The single family dwelling is occupied by a year-round resident who owns the property, and
vi. The "family apartment" is not rented or used as a rental unit, and
vii. The residency and rental restrictions noted above in #5 and #6 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.

10.3.C.4. *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 IV the Planned Development District of the Edgartown Zoning Bylaws, with the exception that the Zoning Board of Appeals shall be the special permit granting authority and their rules and regulations shall supersede this bylaw.

10.3.D. **Accessory apartments.**

10.3.D.1. *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.

10.3.D.2. *Purpose and Intent*

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.

The purposes of this bylaw are to:

a. Provide rental housing for Edgartown's small families and seniors within the architectural context 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.

10.3.D.3. *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:

a. 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.
b. 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.
c. 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.
d. 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 s.f. nor more than 900 s.f. 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.
e. 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.
f. {withdrawn}[112]
g. 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 surrounding properties and if, in the opinion of the Planning Board, it would be compatible with the Master Plan.

[112] Amended, 2023, ATM, Article #90. 10.3.E req. sequential application to ZBA and HDC; removal allows concurrent applications.

h. 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 Bylaw and of the following factors:
   i. lot configuration and topography, and
   ii. existing private deed restrictions on the subject property.

i. {withdrawn} [113]

10.3.D.4. *Application Procedure:*

The procedure for submission and approval of a special permit for an accessory apartment shall be the same as prescribed in Article IV Planned Development District of this Bylaw with the exception that the Zoning Board of Appeals is the special permit granting authority and their rules and regulations shall supersede this bylaw.

10.3.D.5. *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.

10.3.E. **Substandard lots as affordable home sites.[114]**

10.3.E.1. *Purpose*

The purpose of this section is to allow lots that do not comply with minimum lot area requirements for the zoning district in which the lot is located to be developed as a single-family or two-family home to be used as year-round residences in Edgartown, to provide a housing option for those who, because of high land prices, would otherwise be financially unable to establish their homes in Edgartown.

10.3.E.2. *Definition* [115]

A substandard lot is a lot which either (a) 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 Bylaw (that is not a protected lot under G.L. c. 40A, § 6, par. 4 or other laws), or (b) is a lot consisting of the combination of two or more lots that meet the definition of clause (a) of this subsection.

10.3.E.3. *Special Permit Procedures*

The Zoning Board of Appeals may approve a special permit for a substandard lot to be developed as a single-family or two-family home in any zoning district, notwithstanding provisions in any other Article of this bylaw provided that the following standards and criteria are met:

a. The applicant meets the residence and income requirements of the Edgartown Resident Homesite Committee, and is so certified by the Resident Homesite Committee, before submitting application to the Zoning Board of Appeals.
b. The lot has a minimum of 10,000 square feet.
c. 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, provided that a two-family dwelling must be served by Town sewer.

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[113] Ibid. Allowed for acceptance under this section of Acc. Apartments existing prior to 4/1/1998.
[114] Amended, May, 2024, ATM, Article 90.
[115] Amended April 2025, ATM, Article 81. Section (b) added.

d. The requirements of Section 10.2.A of this bylaw are met.
e. Exterior Design: Any building containing a two-family dwelling must be consistent with surrounding structures in form and architecture while retaining the appearance of a single-family house.
f. Parking: Any parking or driveway areas not already paved shall have permeable surfaces.
g. Under no circumstance shall a substandard lot have more than two dwelling units.

10.3.E.4. Special Permit Condition

a. The issuance of a special permit under this Section 10.3.E is subject to the condition that the owner 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 the time. The Zoning Board of Appeals may impose additional conditions to assure that the purposes of this bylaw are met.
b. If the special permit is for a two-family dwelling, then the covenant with the town described in Section 10.3.E.4.a will also provide that both of the dwelling units (i) shall be either owner-occupied or occupied and rented on a year-round basis, (ii) shall not be used as a short-term rental as defined by G.L. c. 64G, and (iii) shall not be used as a Time Share or Time Interval Ownership Dwelling Unit as defined by the Zoning Bylaw.

10.3.F. Staff Housing[116]

10.3.F.1. Purpose

The purpose of this bylaw is to address the significant shortage of affordable housing for employees working in the town of Edgartown, whose work fosters the economic viability of the community, by providing an employer the opportunity to build, own, and maintain, or to rent property from a third-party, for the purpose of providing appropriate housing for such employees which are sensitive to the single family character of the Town of Edgartown. Through the Zoning Board of Appeals process this goal can be met by repurposing existing housing or creating additional housing while maintaining harmony and balance with the surrounding neighborhood.

10.3.F.2. Definition

Staff housing is defined to mean attached or detached living units owned or rented by a public, private, or non-profit employer, in which employees of that employer are housed.

10.3.F.3. Permitting Procedures and Conditions

The Zoning Board of Appeals may authorize staff housing for not more than eight (8) dwelling units, either in a single structure or in multiple structures, on a property~~,~~ by special permit in any zoning district, notwithstanding provisions in any other Article of this Bylaw, provided that the following standards and criteria are met:

a. Exterior Design: Staff housing may be located in any district provided that it is in keeping with the surrounding structures in form and architecture while retaining a single family home appearance. For new construction, conversion of existing structures to staff housing or any physical alteration of the footprint or the square footage of the Gross Floor Area in connection with the use of an existing structure as staff housing, the building must conform to setbacks, height restrictions, minimum lot sizes and other restrictions which apply within the zoning district in which it lies. The

[116] Amended by Town Meeting, May, 2024, Article 91.

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 roof, 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.

b. Size: New structures built for staff housing and structures converted or renovated for use as a staff housing may have not more than eight dwelling units in a building. Conversion of an existing structure shall not increase the gross square footage of the existing structure by more than 20%.
c. Density: In no event shall the Edgartown Board of Health regulations for sewage be exceeded.
d. Residency: Each individual staff housing unit shall be occupied by at least one employee of the employer who owns or rents the building or unit. The number of occupants per housing unit shall be determined by the State Building Code and/or Fire Code. There shall be a resident manager on site, who may also be an employee of the employer who owns or rents the staff housing. Residency will be by written agreement between the employer and the employee/resident and shall be related to the terms of employment. The residency requirement must be assured by a written covenant between the employer and Town. 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.
e. 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.
f. Parking: Parking facilities shall be provided in a ratio adequate for the proposed dwelling units, with no more than one space for each bedroom. In all cases the parking will be off-road and screened. Any new parking or driveway areas to be provided as a result of a permit issued pursuant to this Bylaw shall have permeable surfaces. Bike racks will be provided on-site.
g. Lighting: Lighting shall not negatively impact the neighborhood. Drives, walkways, entryways and parking areas shall not be illuminated by light higher than three (3) 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.
h. Site: For new construction of staff housing, the building(s) 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 buildings must not adversely affect the natural environment to the detriment of community character and public health and safety. In particular, the buildings shall be sited to preserve the integrity of drinking water, ground water 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.

i. General: For new construction of staff housing, 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, streetscapes, lighting, walkways, trash, mail boxes, 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.

The Zoning Board of Appeals may issue a special permit if it finds that the proposal meets the intent and provisions of this section. The Zoning Board of Appeals may condition the special permit to meet the intent and provisions of this section.

10.3.G Fractional Ownership, Interval and Time Share Units[117]

10.3.G.1 *Intent and Purpose*

The purpose of this section is to preserve and protect housing stock in the Town from the market pressures attendant to fractional ownership, interval and time share uses and to protect neighborhoods from the impacts of such uses.

a. Fractional Ownership, Interval and Time Share Units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.
b. The needs of transient occupants are averse to the interests sought to be protected and preserved in residential neighborhoods, because commercial uses for transient occupants may sacrifice other values critical to residential neighborhoods.
c. The Town deems it necessary and appropriate to protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences.

10.3.G.2 *Definitions:*

Fractional Ownership, Interval or Time Share Unit. Any real or personal property which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:

1. co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times.
2. centralized or professional management.
3. reservation systems.
4. maximum or minimum day limits on each interest holder's occupancy or use of the property; or
5. management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

[117] Added May, 2024, ATM Article 88.

10.3.G.3 *Regulation of fractional ownership, interval, and time share units.*

The use of a Fractional Ownership, Interval or Time-Share Unit is conditionally permitted in the B-I, B-II, and B-III Business Districts.

The use of a Fractional Ownership, Interval or Time Share Unit is prohibited in the R-5, R-20, R-60, R-120, and RA-120 residential districts.

10.3.G.4 *Exceptions*

a. This section shall not be deemed to preclude the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes.
b. This section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

10.3.G.5 *Severability.*

If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

10.3.H **Mixed Use Buildings** [118]

10.3.G.1 *Purpose and Intent*

The purpose of this bylaw is to add to the diversity of housing stock, to address the significant shortage of affordable housing options, particularly for employees working in the town of Edgartown, by creating dwelling units in proximity to centers of business, and to maximize the use of existing buildings traditionally restricted to retail, government, business or commercial uses only.

10.3.G.2 *Permitting Procedures and Requirements*

New and existing buildings located in business zoning districts (B-I, B-II, and B-III) that contain retail, government, commercial, or other business uses shall be permitted to add residential dwelling units provided the following is presented to the Building Inspector at time of application and the Building Inspector is satisfied that the following conditions are met:

a. The first floor of said building must contain retail, government, commercial, or other business uses.
b. Residential dwelling units shall not be located on the first floor.
c. All residential dwelling units must be rented or leased for periods of 12 months or more.
d. At least one resident of each unit must be employed by a government, non-profit or commercial entity operating on Martha's Vineyard.
e. The requirements of this Section 10.3.G must be assured by deed restriction, running with the land.
f. Deed Restriction: The owner of property seeking permission to create the mixed-use building shall, prior to the issuance of said permit, present to the Building Inspector in a form acceptable to Town Counsel, a deed restriction or covenant affecting the title to the property on which the mixed-use building is located and which shall ensure that the residential dwelling units

[118] Added April, 2024, ATM, Article #93

i. will be either owner-occupied or occupied and rented on a year-round basis,
ii. shall not be used as a short-term rental-as defined by G.L. c. 64G,
iii. shall not be used as a Time Share or Time Interval Ownership Dwelling Unit as defined by the Zoning Bylaw, and
iv. at least one occupant of each unit shall be an employee of a government, non-profit or commercial entity operating on Martha's Vineyard.

Said deed restriction or covenant shall indicate that it is enforceable by the Town of Edgartown. Proof of recording of said deed restriction or covenant at the Registry of Deeds or Land Court Registry District shall be presented to the Building Inspector prior to the issuance of an occupancy permit for the mixed-use building.

g. Sewer: The entire building must be connected to and served by a sewer treatment plant. The building shall meet all wastewater requirements for the combined number of bedrooms and uses on the lot. The property owner shall obtain confirmation from the Wastewater Department that adequate capacity is available to serve the mixed-use building.

10.3.I Protected Use Accessory Dwelling Units (ADUs) [119][120]

10.3.I.1 *Definition*

As defined in Section 1.3 – Definitions "Protected Use Accessory Dwelling Unit (ADU)"

10.3.I.2 *Purpose and Intent*

The purposes of this bylaw are to:

a. Increase the production of housing for low- and moderate-income residents in accordance with the stated purpose of the Massachusetts Affordable Homes Act;
b. Provide rental housing within the architectural context of the island's single-family home character;
c. Provide an opportunity for family members who choose to live in close proximity, but separate from other family members, to remain within that family environment;
d. Provide for the health and security concerns of older or disabled homeowners who wish to remain in their homes; and
e. Provide homeowners with additional income to support their ability to retain ownership of their homes.

10.3.I.3 *Permitting Procedures and Conditions*

In all zoning districts that permit single-family dwellings, one (1) Protected Use ADU may be constructed or established as a matter of right on the same lot as an existing or proposed principal dwelling, provided that a Protected Use ADU may not be added to a property that already has a principal dwelling and a Protected Use ADU.

A second Protected Use ADU may be constructed or established on the same lot with a special permit from the Planning Board.[121]

A Protected Use ADU to be constructed or established pursuant to this Section 10.3.I shall satisfy the following standards and criteria:

[119] Added 2025. ATM, Article #79.
[120] Amended 2026 ATM: Article #70
[121] Amended 2025. ATM, Article 7, by Amendment: "A second ADU may be constructed or established on the same lot with a special permit from the Planning Board in 10.3.I.3." Added by amendment.

a. Interior Design: The Protected Use ADU shall be a complete separate housekeeping unit that functions as a separate unit from the principal dwelling with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant.
b. Ownership: The Protected Use ADU and the principal dwelling unit shall be and remain in common (i.e. the same) legal or equitable ownership.
c. Exterior Design: The Protected Use ADU shall be designed so that the appearance of the Protected Use ADU will be consistent with the character and design of the principal dwelling as much as feasibly possible as determined by the Building Inspector. To ascertain this, architectural plans must be submitted at the time of application for a building permit. The Protected Use ADU may be constructed in or added to an existing or proposed principal dwelling. Any new entrance added to the principal dwelling to accommodate the Protected Use ADU shall be on the side or rear of the principal dwelling so long as it meets the requirements of existing codes.
d. Dimensional Requirements: The Protected Use ADU shall clearly be subordinate to the principal dwelling. The front, side, and rear setback requirements and the height restrictions applicable to the Protected Use ADU shall be the same as those applicable to a principal dwelling in the zoning district, including the Districts of Critical Planning Concern Overlay Districts, in which the Protected Use ADU is located. Section 10.1.M of this Zoning Bylaw shall also apply.
e. Parking: At least one additional off-street parking space shall be available on the premises for use by the residents of the Protected Use ADU and shall be located so as to minimize the visual impact from the street or abutting properties, provided, however, that this requirement may be waived by the Building Inspector for units in the Downtown Historic District. If the subject lot is less than 0.5 acres, or if any portion of the subject lot is within 0.5 miles of a transit authority bus route, then no parking spaces shall be required for the Protected Use ADU.
f. Septic/Wastewater: If the Protected Use ADU will be served by a septic system, it shall comply with state septic regulations and require approval from the Board of Health, prior to the issuance of a building permit for the Protected Use ADU. Otherwise, it shall comply with the regulations of the Wastewater Department and shall, prior to the issuance of a building permit for the Protected Use ADU, obtain confirmation from the Wastewater Department that adequate capacity is available to serve the Protected Use ADU.
g. Notwithstanding anything to the contrary contained in the bylaws and regulations of the Town of Edgartown, a Protected Use ADU permitted for construction in any zoning district after April 8, 2025, shall not be used as a Short Term Rental. [122]

10.3.I.4 *Administration*

All Protected Use ADUs shall require a building permit, and the Building Inspector shall cause a notation to be made on any building permit issued under this Section 10.3.1 that it has been so issued.

[122] Amended 2025, ATM, Article #79. Section 10.3.I.3.g Added by amendment.

10.4. Health

10.4.A - Adult Use Marijuana Establishments [123]

10.4.A.1 *Definitions:*

Cannabis Cultivation: The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis or Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include:

a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
b) hemp; or
c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Ceases to Operate: Marijuana Establishment closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand

[123] Amended by ATM, April 9, 2019, Article #74

cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Host Community: A municipality in which a Marijuana Establishment is located or in which an applicant has proposed locating an establishment.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is

a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

Marijuana Microbusiness: A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Process or Processing: To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.

Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited

from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): An entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

RMD Applicant: A previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.

10.4.A.2. *Purposes.*

It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as legally authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of Marijuana Establishments (hereafter also referred to as an ME) is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Edgartown.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.000, Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

10.4.A.3. *Applicability*

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a Marijuana Establishment, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to an adult use Marijuana Establishment.

This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to M.G.L. Chapter 128 §§ 116-123.

10.4.A.4. *Additional Requirements/Conditions*

In addition to the standard requirements for uses permitted by right or requiring a Special Permit or Site Plan Approval, the following shall also apply to all Marijuana Establishments:

a. Use:

i. Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.

ii. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

iii. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

iv. No marijuana establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.

v. The number of adult use marijuana retail establishments permitted to be located within the Town of Edgartown shall not exceed 20% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

b. Physical Requirements:

i. All aspects of the any marijuana establishment (except for the transportation of product or materials) relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.

ii. No outside storage is permitted.

iii. No Marijuana Retailer shall have a retail floor area in excess of 2,500 square feet.

iv. Ventilation – all marijuana establishments shall be ventilated in such a manner that no:

- Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
- No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

v. Signage shall be displayed on the exterior of the marijuana establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text two inches in height. All other signage must comply with all other applicable signage regulations in this Zoning Bylaw and 935 CMR 500

vi. Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be

subject to a vegetative screen and the SPRA shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

c. Location:

i. Marijuana establishments are encouraged to utilize existing vacant buildings where possible

ii. No marijuana establishment shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located) of a parcel occupied by a pre-existing public or private school (existing at the time the applicant's license application was received by the Cannabis Control Commission) providing education in kindergarten or any of grades 1-12.

iii. No marijuana retailer shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana retailer is or will be located) of a parcel occupied by another marijuana retail facility.

iv. No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.

v. No marijuana establishment is permitted to utilize or provide a drive-through service.

d. Reporting Requirements.

i. Prior to the commencement of the operation or services provided by a marijuana establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

ii. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by the marijuana establishment facility owner/operator/ manager:

a. A minimum of 30 days prior to any change in ownership or management of that establishment.

b. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.

iii. Permitted marijuana establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

iv. The owner or manager of a marijuana establishment is required to respond by phone or email within twenty-four hours of contact by a Town official concerning their marijuana establishment at the phone number or email address provided to the Town as the contact for the business.

e. Issuance/Transfer/Discontinuance of Use

i. Special Permits/Site Plan Approvals shall be issued to the marijuana establishment owner.

ii. Special Permits/Site Plan Approvals shall be issued for a specific type of marijuana establishment on a specific site/parcel.

iii. Special Permits/Site Plan Approvals shall be non-transferable to either another marijuana establishment owner or another site/parcel.

iv. Special Permits/Site Plan Approvals shall have a term limited to the duration of the applicant's ownership/control of the premises as a marijuana establishment, and shall lapse/expire if:

- the marijuana establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or
- the marijuana establishment's registration/license by the Cannabis Control Commission expires or is terminated.

v. The marijuana establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.

vi. A marijuana cultivation or product manufacturing establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.

- Prior to the issuance of a Building Permit for a marijuana establishment the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days' written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

10.4.A.5. Application Requirements

Applications for Special Permits and Site Plan Approvals for marijuana establishments will be processed in the order that they are filed with the Town. The approval of a Special Permit for any marijuana establishment is up to the discretion of the Planning Board who will be making its determination based on selecting the marijuana establishments that it Finds are in the best interests of the Town and best comply with the standards and intent of this Bylaw. While the Planning Board is authorized to approve Special Permits for marijuana establishments in an amount up to, but not exceeding, 20% of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws, the Planning Board is not obligated to approve an application for a marijuana establishment that it doesn't find is in the best interests of the Town and complies with the standards and intent of this Bylaw just because the maximum number of allowed Special Permits for a marijuana establishment haven't been approved.

In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for a marijuana establishment shall include the following:

a. The name and address of each owner and operator of the marijuana establishment facility/operation.
b. A copy of an approved Host Agreement.
c. A copy of its Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.
d. If it's in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance

with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

e. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
f. Evidence that the Applicant has site control and right to use the site for a marijuana establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
g. A notarized statement signed by the marijuana establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
h. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
i. A detailed floor plan identifying the areas available and functional uses (including square footage).
j. All signage being proposed for the facility.
k. A pedestrian/vehicular traffic impact study to establish the marijuana establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public right of ways will not be unreasonably obstructed.
l. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
m. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishment or off-site direct delivery.
n. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment's:
    i. Operating procedures
    ii. Marketing and advertising
    iii. Waste disposal
    iv. Transportation and delivery of marijuana or marijuana products
    v. Energy efficiency and conservation
    vi. Security and Alarms
    vii. Decommissioning of the marijuana establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

10.4.A.6 *Third Party "Peer" Review.*

The SPGA may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. Failure to comply with this section shall be good grounds for denying the application.

10.4.A.7. *Findings*

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

a. The Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
b. That the marijuana establishment facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
c. That the marijuana establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
d. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
e. That the marijuana establishment facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
f. That the marijuana establishment facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

Article XI, Sign Regulations

11.1. Purpose.

The purpose of Article XV is to regulate the use of signs defined below in order to preserve the character and heritage of Edgartown.

11.2. Definitions.

11.2.A. 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 or a public or private way, public park or reservation.

11.2.B. 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.

11.2.C. Non-accessory Sign.

Any sign not an accessory sign.

11.2.D. Person

shall include an individual, corporation, society, association, partnership, trust or other entity, public or private.

11.2.E. Standing Sign.

Any accessory sign that is not attached to a building.

11.2.F. Sign, Area of,

1) 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 or bracing.
2) 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.
3) The area of a sign consisting of a three dimensional object shall be considered to be the area of the largest vertical cross-section of that object.
4) In computing the area of signs, both sides of V-shaped signs but only one side of back-to-back signs shall be counted.

11.2.G. Temporary Sign.

Any sign, including its supporting structure, to be maintained for a continuous period of not more than 30 days.

11.3. Administration and Enforcement.

11.3.A. Enforcement.

The Building Inspector is hereby authorized to enforce this Bylaw. He is authorized to order the repair or removal of any sign and its supporting structure which in their judgment is dangerous, or in disrepair or which is erected or maintained contrary to this Bylaw.

11.3.B. Administration.

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 Bylaw. Its role with be advisory.

The Advisory Council shall consist of five year-round and full-time residents including at least at least two from the retail sector and one 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 consecutive weeks. The initial appointment shall be of one member serving a one-year term, two members serving two-year terms and two members serving three-year terms. Unexpired terms shall be filled by the above selection process.

The Council shall meet weekly during the period March 1 through June 30th 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 10 days. A quorum shall consist of three members of the Advisory Council.

11.3.C. Permits.

Except as provided in Sections 11.4.E, 11.5, and 11.6.B.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 Bylaw. The provisions of this section shall not apply to signs permitted in a residential area or temporary signs to be placed in a window.

11.4. General requirements.

11.4.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.

11.4.B. Movement.

No sign shall contain any moving, flashing or animated lights, or visible moving or moveable parts.

11.4.C. Illumination.

Signs may be illuminated only by a white steady, external, stationary light of reasonable intensity, shielded and directed solely at the sign. Internally-illuminated accessory or non accessory signs shall not be permitted except that internally-illuminated ice and beverage dispensing machines may be permitted if shielded from public view is a manner appropriate to the particular locations (see section 11.4.F.) and only after a sign permit has been granted.

11.4.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 50%. The character of such signs shall meet the requirements of 11.4.A, above.

11.4.E. Temporary Signs.

Temporary signs which comply with this Bylaw shall be permitted. Temporary signs which do not comply with this Bylaw may be authorized by the Building Inspector for public or charitable purposes.

11.4.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 bylaw, 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 locations 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 a merchandising display plan as part of their application.

11.4.G. Permitting of Existing Vending Machines

That all proprietors displaying outdoor ice and beverage vending machines which are in place on this date shall be granted, upon application within thirty days, sign permits valid for the period ending April 1st, 1984. Such permits shall conform to 11.4.F thereafter.

11.4.H. No Trespassing Signs

"No Trespassing Signs" and other similar signs which prohibit activities do not require a permit but must comply with Sections 11.4.A, B., and C. of the bylaw. Such signs may be posted on property at such regular intervals as meet the requirements of posting property.

11.4.I. Political Signs.

A political sign is one that is designed or intended to influence the actions 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 10 days following such election. Political signs are permitted whether or not they comply with other sections of this Bylaw.

11.5. Requirements for non-accessory signs.

Non-accessory 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 year, subject to annual review.
C. Only signs giving directions to establishments not otherwise easily located or conveying information similarity useful to the general public shall be allowed.
D. Sign area and location shall comply with requirements of Section 15.6 for Accessory Signs.
E. Further limitations on size, location and illumination may be imposed at conditions of approval by the Building Inspector if determined by him to be necessary to protect the character of the existing neighborhood.

11.6. Requirements for accessory signs.

11.6.A. Residence Districts.

In residence districts there shall be no more than one sign per lot and that sign may only be used to identify the premises or to refer to products or services available

there, or advertising the fact that the premises are for sale or rent. All signs shall be no more than four square feet in size.

11.6.B. Business Districts.

In an area zoned as a business, commercial or industrial district, signs permitted under 11.5.A and the following are permitted:

1) One 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 10 percent of the wall area of such establishment or 12 square feet. If perpendicular to the building, it may not project more than 4 feet from the building nor exceed 5 square feet in area. Roof signs and V-shaped signs are not permitted.
2) One 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 square foot for each establishment occupying the building.
3) Standing Signs shall be allowed only on Special Permit from the Building Inspector, subject to the following:
    a. Sign area shall not exceed 12 square feet, sign height shall not exceed 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 condition 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.

11.7. Nonconformance of accessory signs.

Accessory signs legally erected before the adoption of this Bylaw may continue to be maintained without a permit, provided, however, that no such sign shall be permitted if, after the adoption of this Bylaw, it is enlarged, reworded (other than in the case of a theatre or cinema signs), redesigned or altered in any substantial way, except to conform to the requirements of this Bylaw; and provided further than any such sign which has

deteriorated to such an extent that the cost of restoration would exceed thirty-five per cent of the replacement cost of the sign at the time of restoration, shall not be repaired or rebuilt of altered except to conform to the requirements of this Bylaw. Any exemption provided in this Section 11.6 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, or
C. Shall not have been repaired or properly maintained within thirty days after notice to that effect has been given by the Building Inspector.

11.8. Requirements for signs in historic districts.

Historic Districts in the Town of Edgartown are defined as shown on the map entitled "Edgartown Historic District, Edgartown, MA", effective 14 April 1987, on file with the Edgartown Town Clerk, the Edgartown Historic District Commission, and the Dukes County Registry of Deeds. 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.

Additional requirements for signs to be erected in an Historic District are as follows:

11.8.A. **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.

11.8.B. **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:

1. Superfluous, "busy" or otherwise unnecessary borders and or shapes.
2. Non-conventional typefaces
3. Bright colors, either in lettering, shapes, background or borders.

11.8.C. **Wall Sign:**

The top of a wall sign for a street-level establishment may not protrude above the top of a second-story window sill.

11.8.D. **Number of Signs:**

The minimum effective number of signs will be permitted at any one business location.

11.8.E. **Architectural Features:**

It is strongly recommended that no sign obscures an architectural feature or ornament.

11.8.F. **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:

1. 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 hand-crafted sign for a franchised or otherwise affiliated business may be more appropriate than a mass-produced, "home-office-approved" type of sign.
2. 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.
3. 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 XII, Public Utilities

12.1. Purpose.

For the purpose of providing a location for public utility buildings and structures which are found to be reasonable 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 structure
   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 Bylaw.

12.2. Grant of special permit.

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.

12.3. Application for special permit.

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 it review process. The Planning Board, at applicant's expense, may contract with professionals including engineers to assist in its review of the application, which expense to be reasonable.

12.4. Criteria for special permit consideration.

In approving or disapproving an application, the Planning Board shall, as a minimum, take into consideration:

A. public need
B. public benefit
C. location on site
D. architecture and exterior appearance
E. landscaping and screening
F. erosion control
G. access roads
H. public safety on site and nearby
I. construction techniques and schedule
J. maintenance of structures, landscaping and access roads
K. lot coverage, buildings and structures not to exceed 10% of the total lot size.

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.

12.5. 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 XIII, Personal Wireless Service Facilities

13.1. Definitions.

Personal Wireless Service (PWS): Telecommunications defined in Section 704 of the Telecommunications Act of 1996, which include, primarily, commercial mobile radio services as defined by the Federal Communications Commission ("FCC"). (For purposes of this article, other wireless services that provide services from central terrestrial antenna site(s) to subscribers, such as "WiFi" or "WiMAX" internet services shall be considered PWSs.)

Personal Wireless Service Facility (PWSF): An installation that performs the communication between a PWS provider authorized by the FCC to provide such services in Edgartown, and its subscribers. Such installation may consist of such elements as antennas, interconnecting cables, antenna mounting structure or apparatus, electronics, utility interfaces, and relevant equipment. Each PWSF consists of the installation belonging to one PWS provider.

13.2. Purpose.

In order to enable the provision of PWS in the Town of Edgartown, adequate and comprehensive cellular phone service to the citizens of Edgartown while protecting the character of residential neighborhoods and of the Town, the following bylaw applies to all applications for installation of PWSFs and ancillary equipment installations, including but not limited to support structure, antennas, transmitting, receiving and combining equipment, transmission, cables and backup power source.

13.3. Special permit required.

In all zoning districts, PWSF's and ancillary equipment installations may be allowed by special permit from the Planning Board. The Planning Board may exempt a PWSF from dimensional requirements delineated in other Articles of this Zoning bylaw, provided the Planning Board makes the following findings:

A. The applicant has demonstrated that it cannot substantially provide the needed service from one or more PWSFs that are more compliant with the bylaw, or the proposed PWSF, with dimensional waivers, has no material impact on the safety, health, general welfare and quality of the life in Edgartown.
B. There are no alternative means of placing one or more PWSFs to substantially provide the needed service that have a lesser overall impact on Edgartown.
C. That the proposed PWSF is designed to minimize the extent of the requested dimensional waiver(s) by judicious placement on the parcel and judicious analysis of the necessary height.
D. That the visual impacts of the proposed PWSF are mitigated to the maximum practicable extend by such means as described in Sec. 13.4, "Criteria for Special Permit".

13.4. Criteria for special permit.

A. PWSFs shall be designed to utilize concealed antenna units often called "stealth" technology, unless it is impracticable to do so, on the proposed site or alternative sites, or unless the Planning Board finds the visual impact of the proposed PWSF does not materially affect the Town of Edgartown.
B. If a height greater than 32 feet above ground is proposed for a PWSF antennas or appurtenances, the applicant for the PWSF must demonstrate the need for the height according to 13.3.
C. All new construction of PWSFs shall be concealed, for example in existing or new structures that are compatible with the architecture of Edgartown such as flagpoles, light posts, steeples or other innovative methods as they are developed and evolve.

D. PWSF towers supporting exposed antennas and apparatus that are existing as the date of adoption of this bylaw (February 12, 2011) may be exempted from this concealment requirement.
E. If the Planning Board finds that the proposed PWSF, without concealment causes no material negative visual impact on Edgartown, the Planning Board may permit screening, camouflage, or terrain and existing vegetation to mitigate the visual impact of the PWSF.
F. Design of installations shall be traditional, in keeping with the character of Edgartown, and shielded from the abutting structures and public view.
G. All installations and modifications shall comply with the Massachusetts Building Code, specifically with reference to its adoption of steel antenna structure standard TIA-222 as amended from time to time.
H. The criteria of Section 10.2.A ("Conditionally Permitted Uses") and 17.7 ("Special Permits") of the Edgartown Zoning Bylaws shall be met.

13.5. Application.

A. Each application submitted for consideration shall, unless waived by the Planning Board, be prepared by professionals qualified in the necessary disciplines, such as civil engineers and wireless communications engineers, among others.
B. The PWS provider must be the applicant or co-applicant, who holds the license or authorization to operate the facility, demonstrate the leasehold commitment to the site, and permission of the site owner to apply for the special permit.
C. Applicant must supply a list of alternatives considered and demonstrate that it cannot substantially provide the needed service from one or more PWSFs that are more compliant with the bylaw, or the proposed PWSF with dimensional waivers, has no material impact on the safety, health, general welfare, and quality of life in Edgartown, and there are no alternative means of placing one or more PWSFs to substantially provide the needed service that have a lesser overall impact on Edgartown.
D. The applicant must provide a demonstration of need, supported by maps, and written explanations of data.
E. 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 and in accordance with applicable laws of the Commonwealth.

13.6. Prohibited installations.

New wireless towers over 32 feet in height are prohibited, unless the Planning Board makes all necessary findings in Sec. 13.3. Prohibit the installation of any wireless communication antennas and apparatus on the Edgartown Water Department Standpipes unless the Board finds that in lieu of using the standpipes, there are no alternative locations that do not require dimensional waivers in 13.3 for one or more PWSFs to substantially serve the coverage needs.

Article XIV, Energy Systems (ECS)

14.1. Wind Energy Conversion Systems (WECS)

14.1.A. Special permit required; definitions.

Conditionally permitted uses require a special permit from the Special Permit Granting Authority, in accordance with regulations appearing in Article 17.1 ("Conformance and Permit Required") and Article 10.2.A ("Conditionally Permitted Uses") of this bylaw.

Wind Energy Conversion System (WECS): A device which converts wind energy to mechanical or electrical energy.

14.1.B Setback requirements.

The minimum setback distance for all WECS from the property lines shall be (and continue to be for the life of the installation) at least equal to three (3) times the maximum height of the machine from grade. Setbacks will be measured to the center of the tower base.

14.1.C Tower access.

Climbing access to the WECS tower shall be limited either by (1) the installation of a fence with locked gate around tower base or (2) by limiting tower climbing apparatus to no lower than10 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.

14.1.D Public good.

The Special Permit Granting Authority 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.

14.1.E Maintenance.

A WECS will be considered abandoned if not properly maintained for a period of six (6) months 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 WECS shall be operated in a safe and reasonable manner.

14.1.F Permits and approvals required.

No wind energy facility or met tower shall be erected, constructed, installed or modified in the Island Wind District of Critical Planning Concern Ocean Zone without first obtaining:

1. A special permit from the Special Permit Granting Authority which may be granted only upon a finding of consistency with the Guidelines of the Island Wind DCPC designation for the Ocean Zone; and
2. The Special Permit Granting Authority's determination that the wind energy facility or met tower complies with this bylaw's general standards for the grant of a special permit; and
3. Approval or approval with conditions by the Martha's Vineyard Commission as a Development of Regional Impact.

14.2 Solar Photovoltaic Installations[124]

14.2.A **Definitions**

Solar Photovoltaic Installation ("SPI"): A system designed to generate electricity through the use of solar photovoltaic panels and other necessary equipment. An SPI may be ground- or roof-mounted.

Roof-mounted Solar Photovoltaic Installation ("RSPI"): a solar photovoltaic system that is structurally mounted on the roof of another structure, and generates power utilized on- or off-site.

Ground-mounted Solar Photovoltaic Installation ("GSPI"): a solar photovoltaic system that is structurally mounted on the ground, is not mounted on a roof, and generates power utilized on- or off-site.

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

14.2.B **Roof-mounted Solar Photovoltaic Installation (RSPI)**

RSPI Use Table

Nameplate Capacity	R-5	R-20	R-60	R-120	RA-120	B-1	B-2	B-3	B-4
1-36kw	SPR	P	P	P	P	SPR	P	P	P
Over 36kw	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR

"P" = Building Permit Only
"SPR" = Requires Site Plan Review

14.2.C **Ground-mounted Solar Photovoltaic Installations (GSPI)**

GSPI Use Table

Nameplate Capacity	R-5	R-20	R-60	R-120	RA-120	B-1	B-2	B-3	B-4
Any	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR

"P" = Building Permit Only
"SPR" = Requires Site Plan Review

14.2.D **Site Review for Solar Photovoltaic Installations**

14.2.D.1 *Authority.*

The Planning Board shall be the Site Plan Review Authority (SPRA) in all SPIs requiring Site Plan Review.

14.2.D.2 *Notice.*

The SPRA shall notify the following of any application for an SPI: Building Inspector, Conservation Commission, Board of Health, Historic District Commission, Zoning Board of Appeals. The SPRA shall not grant approval for an SPI without consideration of all responses received from said entities within thirty (30) days of issuance of notification.

14.2.D.3 *Third Party "Peer" Review.*

The SPRA may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. Failure to comply with this section shall be good grounds for denying the application.

[124] Added by Town Meeting, April 9, 2019, Article #72.

14.2.D.4 *Public Notice and Hearing Optional.*

The SPRA may require, at its option, public notice and public hearing, in accordance with Section 9 of Chapter 40A of the General Laws. Any expense related to said public notice and hearing shall be borne by the applicant.

14.2.D.5 *Approval.*

Pursuant to MGL Chapter 40A §3, the SPRA shall approve an application submitted in accordance with this section, without or without conditions, if it finds that the SPI as proposed represents:

- no negative impact on public safety,
- no negative impact on scenic, natural and historic resources, and
- no negative impact on the welfare of the residents of the Town of Edgartown.

Said findings must be recorded in the proceedings of the SPRA.

14.2.D.6 *Timeline.*

If the SPRA requires a public hearing in accordance with 14.2.D.4, then all procedures and timelines therein specified shall prevail. Otherwise, the decision of the special permit granting authority shall be made and filed with the Town Clerk no more than ninety days following receipt of the application.

14.2.D.7 *Conditions for Approval.*

The SPRA shall in establish in each case reasonable conditions for approval that address: placement, setbacks, design, construction, operation, monitoring, site control, site security, site lighting, visual screening, noise generation and abatement, reflectivity, landscaping, signage, utility connections, emergency services access, discontinuance of use, and removal.

14.2.D.8 *Regulatory Compliance.*

The construction and operation of all SPI shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with all applicable Building Codes and the Edgartown Zoning Bylaw.

14.2.D.9 *Permit and SPRA Approval Required.*

No SPI shall be constructed, or installed or modified except pursuant to a building permit. No existing SPI shall be modified without application and approval from the SPRA.

Article XV - Senior Residential Developments [125]

15.1 Purposes.

The purpose of this article is to provide for a variety of housing types, settings, and residential services to meet the needs of people as they age, and people with disabilities.

15.2 Applicability.

15.2.A. The Planning Board may grant a Special Permit for a Senior Residential Development in accordance with this Article XXIII on any tract of land meeting the following requirements:

1. Two or more acres of land;
2. Minimum of 100 feet of frontage on a public way; and
3. Public water and/or public wastewater service available to the site.

15.2.B. A Senior Residential Development is intended for people age 55 or over. As such, buildings and site improvements in a Senior Residential Development shall provide for "visitability" and universal design in accordance with the provisions of this article.

15.3 Uses.

15.3.A In any residential or business district, the Planning Board may grant a special permit for a Senior Residential Development that includes one or any combination of the following structures:

1. Cottage Dwellings
2. Two-Family Dwellings
3. Townhouse Dwellings
4. Continuing Care Retirement Facility
5. Skilled Nursing Facility

15.3.B A Senior Residential Development may include one or any combination of the following uses in one or multiple physical structures:

1. Independent Living
2. Assisted Living, with or without memory care units
3. Skilled Nursing Services
4. Physical Rehabilitation Services
5. Memory Care Services

15.3.C. An assisted living residence or continuing care retirement community may include the following nonresidential uses primarily for the benefit of residents and their guests, provided that the aggregate floor area for the nonresidential uses shall not exceed 10 percent of the total Gross Floor Area of the buildings in the development. These uses shall be incidental and subordinate to the principal residential uses in the Senior Residential Development.

1. Retail, up to a maximum of 2,500 sq. ft.
2. Personal services
3. Medical office or clinic
4. Community center or senior center

15.3.D. A Senior Residential Development may also include the following uses:

1. Adult day care center
2. Staff housing that meet the purposes described in Section 10.3.F.1 of this Bylaw, and that otherwise comply with the provisions of this Section 15.

[125] Section Added in 2021, ATM, Article #80.

3. Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities
4. Conservation or agricultural uses

15.4 Basic Requirements.

15.4.A A Senior Residential Development shall comply with the following density regulations:

Structure	Maximum Density	Max. Height (Feet)
Cottage Dwellings or Two-Family Dwellings	4 units/acre	32
Townhouse Dwellings	8 units / acre	32
Continuing Care Retirement Community	16 residents / acre	32
Skilled Nursing Facility	16 residents / acre	32

15.4.B Maximum building coverage shall not exceed 35 percent of the lot area for new construction or expansion of existing structures.

15.4.C. For all vertical construction, the minimum setback shall be 50 feet from all property lines, except that the minimum setback shall be 100 feet from the side or rear lot line, as applicable, abutting an existing single-family dwelling, unless the Planning Board determines that a reduced setback is necessary to achieve the purposes of this section and will not have a detrimental impact on the neighborhood.

Nothing in this section shall preclude the Planning Board from reducing or waiving minimum setback requirements between buildings or internal lots created within the Senior Residential Development.

15.4.D. The minimum common open space in the development shall be 60 percent of the lot area; not more than 20 percent of the required minimum common open space shall consist of wetlands. The upland open space shall be contiguous and usable by residents of the development. A permanent conservation restriction running to or enforceable by the Town shall be recorded for the common open space area and shall include restrictions that the land be retained in perpetuity for conservation or passive recreation.

15.4.E. Minimum off-street parking requirements shall be as follows:

Type of Structure	Parking Requirements
Cottage Dwellings or Two-Family Dwellings	2 spaces per dwelling
Townhouse Dwellings	2 spaces per dwelling
Continuing Care Retirement Community	1 space per two beds
Skilled Nursing Facility	1 space per two beds

15.4.F. Residents of Staff housing shall be persons employed by the Senior Residential Development, or by another assisted-living, medical services, or emergency services entity on Martha's Vineyard. Residents of Staff housing may share the apartment with their immediate family. Residency requirement must be assured by deed restriction, running with the land.

15.5 Age-Appropriate Design.

15.5.A. A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. While units do not have to be age restricted by deed to adults 55 years and over, they must be "visitable" and

designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

15.5.B. Single-family, two-family, and townhouse units shall provide for:

1. At least one zero-step entrance,
2. Doorways with a 36-inch clear passage space,
3. Master bedroom and an accessible en suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
4. Master bedroom and en suite bathroom designed and equipped for seniors and people with mobility impairments, and
5. Indoor or structured parking.

15.5.C. Independent living units and assisted living facilities shall comply with the accessibility requirements of the Massachusetts Architectural Access Board.

15.5.D. Outdoor recreational facilities, such as patios, walkways, gardens, and similar areas, shall be provided for use by all residents and staff, and shall be designed for universal access.

15.6 Development Standards.

As part of the Planning Board's special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance to the following minimum design standards.

15.6.A. Architectural planning and design shall incorporate energy efficient design techniques, such as natural heating and cooling systems, use of sun and wind energy generation systems, and so forth.

15.6.B. Structures located near the project property lines shall be designed and located in a manner that reflects consistency and compatibility with neighboring areas, and shall include appropriate use of building density, heights and design, and vegetative screening and other means of sound protection, to minimize any intrusion on neighbors.

15.6.C. Outdoor recreation or gathering areas, particularly those that may generate significant noise and/or light and glare, shall be located to minimize intrusion on neighboring properties.

15.6.D. Structures shall be clustered to reduce site disturbance and protect open spaces, natural and environmentally sensitive areas.

15.6.E. Building design shall avoid use of long, unbroken facades, and shall include use of offset walls, trellises and other design elements to provide visual interest.

15.6.F. Building design, colors, and materials shall generally correspond to the natural setting of the project site, to the character of Edgartown, and to any prevalent design styles that may occur in neighborhoods within the general project area.

15.6.G. A development served by public water and public wastewater utilities shall be considered highly advantageous.

15.7 Procedures.

15.7.A. The special permit application, public hearing, and decision procedures shall be in accordance with this article, the Planning Board's Rules and Regulations for Special Permits, and Sections 9, 17.5 and 17.7 of this Zoning Bylaw, insofar as applicable.

15.7.B. The Applicant shall submit a Senior Residential Development special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning Board's Rules and Regulations for Special Permits.

15.8 Decision.

15.8.A. The Planning Board may grant a Senior Residential Development special permit with any conditions, safeguards, and limitations it deems necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this article, only upon finding that:

(1) The proposed Senior Housing Development will not have adverse effects that outweigh its beneficial effects on either the neighborhood or the Town, in view of the characteristics of the site and of the proposal in relation to that site, considering each of the following:
   a) Social, economic, or community needs which are served by the proposal;
   b) Traffic flow and safety;
   c) Adequacy of utilities and other public services; and
   d) Qualities of the natural environment.

(2) The design of building form, building location, egress points, grading, and other elements of the project could not reasonably be altered to:
   a) Improve pedestrian, bicycle, or vehicular safety within the site and egressing from it;
   b) Reduce the visual intrusion of parking areas viewed from public ways or abutting premises;
   c) Reduce the volume of cut or fill, or reduce erosion;
   d) Reduce the number of removed trees six inches trunk diameter and larger; and
   e) Provide safer and more efficient access to each structure for fire and service equipment.

(3) The Senior Residential Development meets the purposes, requirements, and development standards of this Article XV, and

(4) The Senior Residential Development is consistent with the goals of the Edgartown Master Plan.

15.8.B. In reviewing a proposal, the Planning Board may waive strict compliance with any provision of this section, provided that such waiver does not substantially nor detrimentally impact the overall development, the immediate abutters, the welfare of the Town of Edgartown, or the purposes and intent of this Zoning Bylaw.

Article XVI (Reserved)

Article XVII, Administration and Enforcement

17.1. Conformance Permit and fencing required.

17.1.A. Building Permit Required[126]

In any of the districts established hereunder, no structure or lot may be used and no structure or part thereof may be erected, exterior dimensions altered, or enlarged except in conformance with this Bylaw; 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

17.1.B. Residential Construction Fencing[127]

For the duration of any construction project on residential properties for which a building or demolition permit has been issued, the property owner or agent shall install and maintain a perimeter fence at least six feet in height or similar barrier to fully enclose the area under construction and to adequately deter unauthorized entry. The Zoning Enforcement Officer may grant a waiver of this requirement if the Zoning Enforcement Officer deems the residential construction site has met the purpose of this Section without the need for perimeter fencing, or the construction is entirely contained within an existing structure, or that unique site conditions exist such that installation of fencing or barriers is infeasible or economically prohibitive.

17.2. Enforcement.

This Bylaw 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 Bylaw. 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 of purposes of this Bylaw.

17.3. Violations and penalties. [128]

Edgartown Zoning Bylaws: 17.3. Violations and penalties. A person who violates any provision of the Zoning Bylaws may be fined $300 for the first violation and each subsequent violation. Each day the violation continues shall constitute a separate violation subject to a fine. The Building Inspector and their designated assistants may impose fines under this provision through the use of the non-criminal disposition procedure provided for in G.L. Chapter 40, Section 21D.

17.4. Board of Appeals.

There is hereby established a Board of Appeals of at least five members, (with not less than two alternate members), who shall serve without compensation. There appointment, duties and procedures shall be as set forth in the Zoning Act. It shall act on all matters within its jurisdiction under this Bylaw.

A. To act upon appeals
B. To issue special permits as provided in this Bylaw.
C. To authorize and grant variances as provided in M.G.L. Chapter 40A, Section 10.
D. The Board of Appeals shall also act as the Board of Appeals under the Subdivision Control Law as provided in M.G.L. Chapter 41, Section 81Z.

[126] Amended April 2025: ATM, Article 78. (Change limited to Section ID – 17.1.A)
[127] Amended April 2025: ATM, Article 78. (New Language)
[128] Amended April 2025: ATM, Article 62.

17.5. Planning Board.

17.5.A. **Establishment**

The Planning Board is hereby established as the special permit granting authority for Planned District Developments, as under the provisions of M.G.L., Chapter 40A, Section 1A, as amended.

17.5.B. **Power**

The Planning Board shall have the power to hear and decide, in accordance with the provisions of M.G.L., Chapter 40A, Section 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.

17.5.C. **Procedure**

1. In exercising the powers granted by Paragraph B above the Planning Board shall act in accordance with the provisions of M.G.L. Chapter 40A, Sections 9, 11, and 16, as amended.
2. In exercising the powers granted through Paragraph B. above the Planning Board may impose such condition, 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 bylaw.

17.6 Planning Board Associate Member

In addition to members elected at Town Elections or appointed to fill vacancies in accordance with M.G.L. Chapter 41, Section 81A, the Planning Board and the 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.

17.7. Special permits.

A. A Special Permit shall only be issued following public hearing held in accordance with M.G.L., Chapter 40A.

B. All Special Permits shall be valid for a term of twenty-four months. 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.[129]

C. For applications for Special Permits within the Coastal, Island Road, Special Places, Edgartown Ponds and Cape Pogue Districts, the Planning Board shall give proper notice and hold a hearing pursuant to M.G.L., Chapter 40A Section 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 applications.
    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.

[129] Amended 2021, ATM, Article #79. Extending permit duration to 24 months, and allowing one 12-month extension.

The Planning Board shall forward a copy of the application and any supportive information to said Boards within 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. 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 Bylaw.

D. Notwithstanding any other section of this Zoning Bylaw, where proposed development on any lot requires a Special Permit under this Zoning Bylaw from more than one Special Permit Granting Authority, the Planning Board shall be the Special Permit Granting Authority for all proposed development on the lot.

17.8. Amendments.

This Bylaw may be amended from time to time at an annual or special Town Meeting in accordance with the provisions of M.G.L. Chapter 40A, Section 5.

17.9. Severability.

The invalidity of any Section or provisions of this Bylaw shall not invalidate any other section or provision thereof. This amendment supersedes any zoning Bylaw previously adopted by the Town of Edgartown.

17.10. When effective.

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 M.G.L. Chapter 40A, Section 6.

17.11. Building permit limitation.[130]

Removed

[130] A building permit limitation, originally adopted in 1989, had a sunset clause, causing the section to be ineffective after two years. The section was removed from this bylaw by vote of Town Meeting on April 9, 2019, Article #75.

Recodification of Bylaws – Approved at 2018 Annual Town Meeting

Reference In Order Of Current Article Numbers

CURRENT ARTICLE NUMBER and TITLE		Previous Article Reference
Article I, General Provisions		**1**
1.1.	Title.	1.1
1.2.	Purpose.	1.2
1.3.	Definitions.	2.0
1.4.	Enumeration of zoning districts.	3.1
Article II, Residential Districts		
2.1.	R-60 Residential District.	4.0
2.2.	R-20 Residential District.	5
2.3.	R-5 Residential District.	6
2.4.	R-120 Residential District.	7
2.5.	RA-120 Residential District.	8
Article III, Business Districts		
3.1.	B-I Business District.	9
3.2.	B-II Upper Main Street District.	10
3.3.	B-III Business District.	10-A
3.4.	B-IV Trades District.	10-B
Article IV, Planned Development District		**16**
4.1.	Purpose.	16.1
4.2.	Special permit granting authority.	16.2
4.3.	Permitted uses.	16.3
4.4.	Uses permissible by special permit.	16.4
4.5.	Procedures.	16.5
4.6.	Performance guarantee.	16.6
4.7.	Criteria for review.	16.7
4.8.	Design criteria.	16.8
4.9.	Relation to Subdivision Control Act.	16.9
Article V, Districts of Critical Planning Concern (DCPC) Overlay Districts		**14**
5.1.	Coastal District.	14.1
5.2.	Island Road District.	14.2
5.3.	Special Places District.	14.3
5.4.	Cape Pogue District.	14.4
5.5.	Katama Airfield and Conservation Area District.	14.5
5.6.	Edgartown Ponds Area District.	14.6

CURRENT ARTICLE NUMBER and TITLE **Previous Article Reference**

Article VI, Surface Water District **20**
6.1. Purpose. 20.1
6.2. Applicability. 20.2
6.3. Permitted uses. 20.3
6.4. Special permitted uses. 20.4
6.5. Definitions. 20.5

Article VII, Floodplain Zone **19**
7.1. Purpose. 19.1
7.2. Base flood elevation levels. 19.2
7.3. Floodplain permits. 19.3
7.4. Requirements. 19.4
7.5. Additional requirements in V Zones. 19.5
7.6. Additional requirements in AO Zones. 19.6
7.7. Special permits. 19.7
7.8. Administration. 19.8
7.9. Definitions. 19.9

Article VIII, Beach Area and Wetlands Regulations **13**
8.1. Purpose and definitions. 13.1
8.2. Special permit required. 13.2
8.3. Duties of Planning Board and Conservation Commission. 13.3
8.4. Beach area regulations. 13.4
.....
Article IX, Cluster Developments **12**
9.1. Purpose. 12.1
9.2. Special permit. 12.2
9.3. Number of dwelling units. 12.3
9.4. Additional restrictions. 12.4
9.5. Preparation of application. 12.5
9.6. Plans and information to be submitted. 12.6
9.7. Guidelines for approval. 12.7
9.8. Issuance of special permit. 12.8

CURRENT ARTICLE NUMBER and TITLE **Previous Article Reference**

Article X, General Regulations **11**
10.1. Lots and Structures
10.1.A. Subdivision of lots. 11.01
10.1.B. Principal buildings on same lot. 11.02
10.1.C. Height of buildings; elevated decks and porches. 11.03
10.1.D. Corner clearances. 11.04
10.1.E. Curb cuts and driveways. 11.24
10.1.F. Conversion of existing structures. 11.05
10.1.G. Nonconforming structures and uses. 11.09
10.1.H. Temporary structures and uses. 11.10
10.1.I. Demolition delay. 11.22
10.2. Uses
10.2.A. Conditionally permitted uses. 11.06
10.2.B. Mobile homes and recreational vehicles. 11.07
10.2.C. Unregistered cars. 11.08
10.2.D. Accessory scientific uses. 11.11
10.2.E. Eating establishments. 11.12
10.2.F. Conversion of transient residential facilities. 11.13
10.2.G. General development regulations. 11.14
10.2.H. Trash. 11.16
10.3. Housing
10.3.A. Multi-unit Dwellings. 11.15
10.3.B. Assisted housing. 11.17
10.3.C. Island independent living. 11.18
10.3.D. Accessory apartments. 11.19
10.3.E. Substandard lots as affordable home sites. 11.20
10.3.F. Staff Housing 11.21
10.3.G Fractional Ownership, Interval and Time Share Units ……...
10.3.H Mixed Use Buildings……...
10.4. Health
10.4.A. Interim regulations for medical marijuana uses. 11.23
10.4.B. Marijuana Establishments Temporary Moratorium 11.25
....
Article XI, Sign Regulations....15
11.1. Purpose. 15.1
11.2. Definitions. 15.2
11.3. Administration and Enforcement. 15.3
11.4. General requirements. 15.4
11.5. Requirements for non-accessory signs. 15.5
11.6. Requirements for accessory signs. 15.6
11.7. Nonconformance of accessory signs. 15.7
11.8. Requirements for signs in historic districts. 15.8

CURRENT ARTICLE NUMBER and TITLE **Previous Article Reference**

Article XII, Public Utilities.....22
12.1. Purpose. 22.1
12.2. Grant of special permit. 22.2
12.3. Application for special permit. 22.3
12.4. Criteria for special permit consideration. 22.4
12.5. Site plan review. 22.5
.....
Article XIII, Personal Wireless Service Facilities 23
13.1. Definitions. 23.1
13.2. Purpose. 23.2
13.3. Special permit required. 23.3
13.4. Criteria for special permit. 23.4
13.5. Application. 23.5
13.6. Prohibited installations. 23.6

Article XIV, Energy Systems (ECS) .....
14.1. Wind Energy Conversion Systems (WECS).....24
14.1.A. Special permit required; definitions. 24.1
14.1.B Setback requirements. 24.2
14.1.C Tower access. 24.3
14.1.D Public good. 24.4
14.1.E Maintenance. 24.5
14.1.F Permits and approvals required. 24.6
14.2 Solar Photovoltaic Installations

Article XV (Reserved)

Article XVI (Reserved)

Article XVII, Administration and Enforcement 17
17.1. Conformance and permit required. 17.1
17.2. Enforcement. 17.2
17.3. Violations and penalties. 17.3
17.4. Board of Appeals. 17.4
17.5. Planning Board. 17.6
17.6. Planning Board associate member. 17.7
17.7. Special permits. 17.5
17.9. Amendments. 18.1
17.10. Severability. 18.2
17.11. When effective. 18.3
17.11 Building permit limitation. 21

Reference In Order Of Previous Article Numbers

Previous Article	Description	Current Article
1	**General Provisions**	**1**
1.1	Title.	1.1.
1.2	Purpose.	1.2.
2	**Definitions.**	**1.3.**
3.1	**Enumeration of zoning districts.**	**1.4.**
4	**R-60 Residential District.**	**2.1.**
5	**R-20 Residential District.**	**2.2.**
6	**R-5 Residential District.**	**2.3.**
7	**R-120 Residential District.**	**2.4.**
8	**RA-120 Residential District.**	**2.5.**
9	**B-I Business District.**	**3.1.**
10	**B-II Upper Main Street District.**	**3.2.**
10-A	**B-III Business District.**	**3.3.**
10-B	**B-IV Trades District.**	**3.4.**
11	**General Regulations**	**10**
11.01	Subdivision of lots.	10.1.A.
11.02	Principal buildings on same lot.	10.1.B.
11.03	Height of buildings; elevated decks and porches.	10.1.C.
11.04	Corner clearances.	10.1.D.
11.05	Conversion of existing structures.	10.1.F.
11.06	Conditionally permitted uses.	10.2.A.
11.07	Mobile homes and recreational vehicles.	10.2.B.
11.08	Unregistered cars.	10.2.C.
11.09	Nonconforming structures and uses.	10.1.G.
11.10	Temporary structures and uses.	10.1.H.
11.11	Accessory scientific uses.	10.2.D.
11.12	Eating establishments.	10.2.E.
11.13	Conversion of transient residential facilities.	10.2.F.
11.14	General development regulations.	10.2.G.
11.15	Multi-unit Dwellings.	10.3.A.
11.16	Trash.	10.2.H.
11.17	Assisted housing.	10.3.B.
11.18	Island independent living.	10.3.C.
11.19	Accessory apartments.	10.3.D.
11.20	Substandard lots as affordable home sites.	10.3.E.
11.21	Staff housing.	10.3.F.
11.22	Demolition delay.	10.1.I.
11.23	Interim regulations for medical marijuana uses.	10.4.A.
11.24	Curb cuts and driveways.	10.1.E.
11.25	Marijuana Establishments Temporary Moratorium	10.4.B.
12	**Cluster Developments**	**9**
12.1	Purpose.	9.1.
12.2	Special permit.	9.2.
12.3	Number of dwelling units.	9.3.
12.4	Additional restrictions.	9.4.
12.5	Preparation of application.	9.5.
12.6	Plans and information to be submitted.	9.6.
Previous Article	**Description**	**Current Article**
12.7	Guidelines for approval.	9.7.
12.8	Issuance of special permit.	9.8.
13	**Beach Area and Wetlands Regulations**	**8**
13.1	Purpose and definitions.	8.1.

13.2 Special permit required. ..... 8.2.
13.3 Duties of Planning Board and Conservation Commission. ..... 8.3.
13.4 Beach area regulations. ..... 8.4.
14 Districts of Critical Planning Concern (DCPC) Overlay Districts 5
14.1 Coastal District. ..... 5.1.
14.2 Island Road District. ..... 5.2.
14.3 Special Places District. ..... 5.3.
14.4 Cape Pogue District. ..... 5.4.
14.5 Katama Airfield and Conservation Area District. ..... 5.5.
14.6 Edgartown Ponds Area District. ..... 5.6.
15 Sign Regulations 11
15.1 Purpose. 11.1.
15.2 Definitions. ..... 11.2.
15.3 Administration and Enforcement. ..... 11.3.
15.4 General requirements. ..... 11.4.
15.5 Requirements for non-accessory signs. ..... 11.5.
15.6 Requirements for accessory signs. ..... 11.6.
15.7 Nonconformance of accessory signs. ..... 11.7.
15.8 Requirements for signs in historic districts. ..... 11.8.
16 Planned Development District 4
16.1 Purpose. 4.1.
16.2 Special permit granting authority. ..... 4.2.
16.3 Permitted uses. ..... 4.3.
16.4 Uses permissible by special permit. ..... 4.4.
16.5 Procedures. 4.5.
16.6 Performance guarantee. ..... 4.6.
16.7 Criteria for review. ..... 4.7.
16.8 Design criteria. ..... 4.8.
16.9 Relation to Subdivision Control Act. ..... 4.9.
17 Administration and Enforcement 17
17.1 Conformance and permit required. ..... 17.1.
17.2 Enforcement. ..... 17.2.
17.3 Violations and penalties. ..... 17.3.
17.4 Board of Appeals. ..... 17.4.
17.5 Special permits. ..... 17.7.
17.6 Planning Board. ..... 17.5.
17.7 Planning Board associate member. ..... 17.6.
18 Effectiveness / Severability / When Effective 18
18.1 Amendments. ..... 17.9.
18.2 Severability. ..... 17.10.
18.3 When effective. ..... 17.11.
19 Floodplain Zone 7
19.1 Purpose. 7.1.
19.2 Base flood elevation levels. ..... 7.2.
19.3 Floodplain permits. ..... 7.3.
19.4 Requirements. ..... 7.4.

Previous Article Description Current Article

19.5 Additional requirements in V Zones. 7.5.
19.6 Additional requirements in AO Zones. ..... 7.6.
19.7 Special permits. ..... 7.7.
19.8 Administration. ..... 7.8.
19.9 Definitions. ..... 7.9.
20 Surface Water District 6
20.1 Purpose. 6.1.
20.2 Applicability. ..... 6.2.

20.3 Permitted uses. ..... 6.3.
20.4 Special permitted uses. ..... 6.4.
20.5 Definitions. ..... 6.5.
21 Building permit limitation. 17.11
22.1 Purpose. 12.1.
22.2 Grant of special permit. ..... 12.2.
22.3 Application for special permit. ..... 12.3.
22.4 Criteria for special permit consideration. ..... 12.4.
22.5 Site plan review. ..... 12.5.
23 Personal Wireless Service Facilities 13
23.1 Definitions. ..... 13.1.
23.2 Purpose. 13.2.
23.3 Special permit required. ..... 13.3.
23.4 Criteria for special permit. ..... 13.4.
23.5 Application. ..... 13.5.
23.6 Prohibited installations. ..... 13.6.
24 Wind Energy Conversion Systems (WECS) ..... 14.1.
24.1 Special permit required; definitions. ..... 14.1.A.
24.2 Setback requirements. 14.1.B
24.3 Tower access. 14.1.C
24.4 Public good. 14.1.D
24.5 Maintenance. 14.1.E
24.6 Permits and approvals required. 14.1.F

-- Solar Photovoltaic Installations 14.2
-- (Reserved) ..... Article XV
-- (Reserved) ..... Article XVI