

**WEST TISBURY  
COMMONWEALTH OF MASSACHUSETTS**

**WARRANT FOR  
ANNUAL TOWN MEETING**

County of Dukes County, SS  
To Either of the Constables of the Town of West Tisbury,

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of West Tisbury qualified to vote in elections and in Town affairs to meet in the **West Tisbury School**, Old County Road, in said Town on **Tuesday the Twelfth day of April, Two Thousand Sixteen**, at **Seven O’Clock** in the evening; then and there to act on the articles of this Warrant.

And to meet again in the West Tisbury Public Safety Building (North Tisbury Fire Station) in said West Tisbury on **Thursday, the Fourteenth Day of April, at Seven O’Clock in the Morning** at the Polling Place, then and there to act on Article 1 of the Warrant by the election of Officers on the Official Ballot.

**The polls for voting** on the Official Ballot will be **opened at Seven O’Clock in the Morning** and shall be closed **at Eight O’Clock in the Evening**.

**ARTICLE 1:** To elect the following Officers on the Official Ballot:

- One Moderator for One Year
- One Member of the Board of Selectmen for Three Years
- One Member of the Board of Health for Three Years
- One Member of the Board of Assessors for Three Years
- One Tax Collector for One Year
- One Town Clerk for One Year
- One Tree Warden for One Year
- Two Members of the Finance Committee for Three Years
- Two Library Trustees for Three Years
- One Member of Parks and Recreation for Three Years

**(RECOMMENDED 4-0)**

**QUESTION 1:** Shall the Town of West Tisbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to pay the costs of constructing and equipping a new Highway Department Building, to be located at the Public Safety Building complex, including any repairs to the existing Public Safety Complex, i.e., utilities, paving and landscaping, or any site improvements incidental or

directly related thereto, and including the cost of moving to the new location and related borrowing cost?

**ARTICLE 2:** To hear reports of the Town Officers and Committees and act thereon.

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**ARTICLE 3:** To see if the Town will vote to Raise and Appropriate such sums of money as may be necessary to defray Town Charges and Expenses for Fiscal Year 2017.

**(NOT RECOMMENDED 4-0)**

**ARTICLE 4:** To see if the Town will vote to authorize the Treasurer and Collector to enter into Compensating Balance Agreements during Fiscal Year 2017 as permitted by M.G.L. c.44, §53F.

**(RECOMMENDED 4-0)**

**ARTICLE 5:** To see if the Town will vote to amend the Personnel Bylaw at Sections 26.3 (Pay Schedule Year Round) to reflect a wage adjustment of 0.55% effective July 1, 2016.

**(RECOMMENDED 3-1)**

**ARTICLE 6:** To see if the Town will vote to Appropriate from Free Cash the sum of Twenty Thousand Dollars (\$20,000) for the purpose of contracting for a Facilities Management Consultant for Town-owned buildings.

**(2-2, MOTION TO RECOMMEND FAILED, NO FURTHER ACTION TAKEN)**

**ARTICLE 7:** To see if the Town will vote to Appropriate the sum of Eight Hundred Fifty Seven Thousand Five Hundred Dollars (\$857,500) for the construction and equipping of a new Highway Department Building, to be located at the Public Safety Building complex, including any repairs to the existing Public Safety Complex, i.e., utilities, paving and landscaping, or any site improvements incidental or directly related thereto, and including the cost of moving to the new location and related borrowing cost. Further, to authorize that this appropriation be met by authorizing the Treasurer, with the approval of the Board of Selectmen, to borrow Eight Hundred Fifty Seven Thousand Five Hundred Dollars (\$857,500) as permitted by M.G.L. Chapter 44, Sub Section 7 or any other enabling authority; provided, however, that this vote shall not take effect until the Town votes to exempt from the limitation of total taxes imposed by M.G.L. Chapter 59 Sub Section 21C (proposition 2 ½) amounts required to pay the principal of and interest on the borrowing authorized by this vote, or take any actions relative thereto. **(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 8:** To see if the Town will *re-approve* up to Two Million Five Hundred Thousand Dollars (\$2,500,000) borrowing authorized by vote of the Martha's Vineyard Refuse Disposal and Resource Recovery District for the purpose of financing the cost of capital improvements towards the restructuring of traffic flow and residential drop-off at the Edgartown Transfer Station, or to take any action relative thereto. **(RECOMMENDED 4-0)**

**ARTICLE 9:** To see if the Town will vote to Raise and Appropriate the sum of Fifteen Thousand Two Hundred Eighty (\$15,280) to fund the Town of West Tisbury's share of the expense of the All Island School Committee's contract for Adult and Community Education in fiscal year 2017. **(RECOMMENDED 3-1)**

**ARTICLE 10:** To see if the Town will vote to reauthorize revolving funds previously established by vote of the Town under M.G.L. c.44, §53E1/2, as recommended by the Board of Selectmen, for Fiscal Year 2017, to be credited with receipts from the following revenue sources, to be expended under the authority and direction of the following agencies or officials, for the following stated purposes, not to exceed the following spending limits respectively:

<b>FUND</b>	<b>REVENUE SOURCE</b>	<b>AUTHORITY TO SPEND FUNDS</b>	<b>USE OF FUNDS</b>	<b>SPENDING LIMITS</b>
Wetlands Protection Bylaw	Filing Fees	Conservation Commission	To pay for expenses of the Commission related to the administration of the Bylaw	\$2,000
Health Services	Medicare, insurance & other reimbursements	Board of Health	Town health services	\$12,000
MVRDRRD	Fees collected at local drop-off by MVRDRRD	Board of Health	Expenses related to operation of the Local Drop-off	\$110,000

**(RECOMMENDED 4-0)**

**ARTICLE 11:** To see if the Town will vote to Raise and Appropriate the sum of Seven Thousand Six Hundred Dollars (\$7,600) to support the CORE program, a collaborative program of the four Martha’s Vineyard Councils on Aging, to provide coordinated counseling, outreach and referral services to our residents who are 55 years and older. To authorize this expenditure, all six towns must vote to approve an article to fund the CORE program in an amount consistent with the 50/50 formula previously established and accepted by the towns.**(RECOMMENDED 4-0)**

**ARTICLE 12:** To see if the Town will vote to Appropriate from Free Cash the sum of Two Thousand Five Hundred Dollars (\$2,500) to fund the cost of a hearing officer who is charged with hearing appeals to building and fire violations. **(RECOMMENDED 3-1)**

**ARTICLE 13:** To see if the Town will vote to Raise and Appropriate the sum of Fifteen Thousand Dollars (\$15,000) to put towards the purchase and equipping of one all-wheel drive police cruiser in FY 2018 and to authorize the Board of Selectmen to dispose of a 2010 Ford Expedition in the best interest of the Town. In the event of unforeseen major repairs to the 2010 Ford Expedition during Fiscal Year 2017, a portion of the \$15,000 may be used towards major repairs.

**(2-2, MOTION TO RECOMMEND FAILED, NO FURTHER ACTION TAKEN)**

**ARTICLE 14:** To see if the Town will vote to Appropriate the sum of Sixty Eight Thousand Dollars (\$68,000) to purchase and equip a new 20,000 lb dump body truck for the highway department and to authorize the Board of Selectmen to dispose of the 2006 F-350 in the best interest of the Town. Further, to authorize that this appropriation be met by authorizing the Treasurer with the approval of the Board of Selectmen to borrow Sixty Eight Thousand Dollars (\$68,000) as permitted by M.G.L. Chapter 44, Sub Section 7 or any other enabling authority.  
**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 15:** To see if the Town will vote to Appropriate the sum of Eighty Two Thousand Two Hundred Thirty Seven Dollars (\$82,237), for reconstruction work on town roads under the provisions of Section 34(2)(a) of Chapter 90 of the M.G.L., which amount is the Town's FY2016 state allocation which will be reimbursed by the Commonwealth of Massachusetts and is therefore considered an available fund.  
**(RECOMMENDED 4-0)**

**ARTICLE 16:** To see if the Town will vote to Appropriate from Free Cash the sum of Forty Five Thousand Dollars (\$45,000) to be used for repairs and maintenance to Town buildings including, but not limited to, the Howes House dehumidifier, Station 1 air exchange, cemetery fence repair and other repairs as identified and needed.  
**(RECOMMENDED 4-0)**

**ARTICLE 17:** To see if the Town will vote to Raise and Appropriate the sum of Twenty Four Thousand Dollars (\$24,000) to be used by the Board of Assessors for the valuation update of real and personal property to meet triennial certification of values as required by Massachusetts State Law.  
**(RECOMMENDED 4-0)**

**ARTICLE 18:** To see if the Town will vote to Appropriate the sum of Sixty Thousand Dollars (\$60,000) to be used for repairs to the Howes House roof. Further, to authorize that this appropriation be met by authorizing the Treasurer with the approval of the Board of Selectmen to borrow Sixty Thousand Dollars (\$60,000) as permitted by M.G.L. Chapter 44, Sub Section 7 or any other enabling authority.  
**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 19:** To see if the Town will vote to Raise and Appropriate the sum of Fourteen Thousand Four Dollars and Sixty-Four Cents (\$14,004.64), as the Town's proportionate share (15.28%) of Fiscal Year 2017 adjusted cost of \$91,653.40 to fund the *FirstStop* information and resource service as recommended by Healthy Aging Martha's Vineyard (previously known as the Healthy Aging Task Force). All six towns must vote in the affirmative.  
**(RECOMMENDED 4-0)**

**ARTICLE 20:** To see if the Town will vote to Raise and Appropriate the sum of Eight Thousand Dollars (\$8,000) to transfer to the Retired/Departing Employees Compensated Absences Reserve Fund as provided for by M.G.L. c. 40, § 13D.  
**(RECOMMENDED 4-0)**

**ARTICLE 21:** To see if the Town will vote to Raise and Appropriate the sum of Fifty Four Thousand Two Hundred Twelve Dollars and Forty Six Cents (\$54,212.46) and transfer the remaining balance of Five Thousand Seven Hundred Eighty Seven Dollars and Fifty four Cents

(\$5,787.54) from the 2012 Annual Town Meeting, Article #36 for the purchase of a brushbreaker truck for a total of Sixty Thousand Dollars (\$60,000) to be placed in a stabilization fund towards the purchase of a new pumper truck for the Fire Department.

**(2/3 VOTE REQUIRED, RECOMMENDED 4-0)**

**ARTICLE 22:** To see if the Town will vote to Appropriate from Free Cash the sum of Ten Thousand Dollars (\$10,000) for the purpose of repairing the swale on the capped landfill at the local drop off. **(RECOMMENDED 4-0)**

**ARTICLE 23:** To see if the Town will vote to Appropriate from Free Cash the sum of Twenty One Thousand Dollars (\$21,000) for maintenance and renovation of the tennis courts on Old County Road. **(RECOMMENDED 4-0)**

**ARTICLE 24:** To see if the Town will vote to Appropriate from Free Cash the sum of Twenty Seven Thousand Five Hundred Dollars (\$27,500) to transfer to the Police Personal Services Line item 210-5120 for Fiscal Year 2016. **(RECOMMENDED 4-0)**

**ARTICLE 25:** To see if the Town will vote to act upon the recommendations of the Community Preservation Committee to appropriate and set aside for later expenditure from the Community Preservation Fund established pursuant to Chapter 44B of the Mass. General Laws, FY2017 revenues, in the following amounts to the following:

- a. Open Space reserve \$50,000 (10% of estimated FY2017 Community Preservation Fund revenues)
- b. Historical Resources reserve \$50,000 (10% of estimated FY2017 Community Preservation Fund revenues)
- c. Community Housing reserve \$50,000 (10% of estimated FY2017 Community Preservation Fund revenues)
- d. Undesignated reserve \$325,000 (65% of estimated FY2017 Community Preservation Fund revenues)

And to Appropriate for the Administrative Expenditures the sum of \$25,000 from FY2017 Community Preservation Fund Revenues.

**(RECOMMENDED 3-0-1)**

**ARTICLE 26:** To see if the Town will vote to Appropriate the sum of Ninety Two Thousand Dollars (\$92,000) to support the rental assistance program of the Dukes County Regional Housing Authority for West Tisbury Households with \$26,000 to be appropriated from the Community Preservation Community Housing reserve and \$66,000 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 3-0-1)**

**ARTICLE 27:** To see if the Town will vote to Appropriate the sum of One Hundred Thousand Dollars (\$100,000) to assist The Island Housing Trust in a regional affordable housing project to create twenty two affordable rental apartments at Kuehn's Way in the Town of Tisbury for households earning 60% or less of the area wide median income with \$20,000 to be appropriated from the Community Preservation Community Housing reserve and \$80,000 to be appropriated from the Community Preservation Undesignated reserve. In exchange, preference for one of the

twenty two units will be given to income qualified West Tisbury residents or employees. The total cost of the project is approximately \$7.8 Million Dollars. **(RECOMMENDED 3-0-1)**

**ARTICLE 28:** To see if the Town will vote to Appropriate the sum of Seven Thousand Five Hundred Dollars (\$7,500) from the Community Preservation Undesignated reserve to fund a program consisting of a community awareness brochure and a web based informational tool to assist year-round West Tisbury property owners interested in adding an accessory apartment (attached or detached) to their primary house, for the purpose of encouraging more affordable rental opportunities within the Town of West Tisbury. **(RECOMMENDED 3-0-1)**

**ARTICLE 29:** To see if the Town will vote to Appropriate the sum of Ten Thousand Dollars (\$10,000) from the Community Preservation Historic Resources reserve to assist The Wampanoag Tribe of Gay Head in the preservation and rehabilitation of the Mayhew Chapel roof and windows to avoid increased damage to the structure while a regional application to completely preserve and rehabilitate the structure is prepared by the Tribe. **(RECOMMENDED 3-0-1)**

**ARTICLE 30:** To see if the Town will vote to Appropriate the sum of Thirty Thousand Dollars (\$30,000) from the Community Preservation Historic Resources reserve to assist the Martha's Vineyard Camp Meeting Association in a regional project to restore the chairs and benches in the Tabernacle. **(RECOMMENDED 3-0-1)**

**ARTICLE 31:** To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement to convey and to negotiate the terms of an easement over Map 25, Lot 16 (the "new" section of the West Tisbury Cemetery) to The Whiting Farm Trust to gain access to Map 16, Lot 18 for farming purposes. The grantees conveyed the new section of the Cemetery to the Town in 1978 for no consideration. **(REQUIRES 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 32:** To see if the Town will vote to amend the Personnel By-law at Section 26.1 (Year Round Classification Plan) to delete the position titled Head of Circulation at Grade 3 and further to add the position of Head of Circulation/Assistant Library Director to the year round classification plan at Grade 5. **(RECOMMENDED 2-1-1)**

**ARTICLE 33:** To see if the Town will vote to amend the Personnel By-law at Section 26.1 (Year Round Classification Plan) to add a new full-time benefited position for the Library titled Programming Coordinator/Administrative Assistant at Grade 3. **(RECOMMENDED 2-1-1)**

**ARTICLE 34:** To see if the Town will vote to Appropriate from Free Cash the sum of Five Hundred Seventy Thousand Dollars (\$570,000) to reduce the tax levy in Fiscal Year 2017. **(RECOMMENDED 4-0)**

**ARTICLE 35:** To see if the Town will vote to amend the following section of the zoning bylaw by adding (*italicized*) and deleting (~~stricken~~) the proposed language at the request of the Federal Emergency Management Agency (FEMA)

## **SECTION 6.7 FLOOD PLAIN ZONE**

### **6.7-1 Purpose**

The Town of West Tisbury, recognizing the dangers inherent upon coastal flooding at times of hurricanes or severe storms and as a means of protecting its citizens and their property, hereby establishes a series of Flood Plain Overlay Districts and Zoning Regulations for construction of structures and for the use of the land within these districts.

### **6.7-2 Boundaries**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of West Tisbury designated as Zone AE, AO or VE on the Dukes County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Dukes County FIRM that are wholly or partially within the Town of West Tisbury are panel numbers 25007C0079~~HJ~~, 25007C0083~~HJ~~, 25007C0084~~HJ~~, 25007C0087~~HJ~~, 25007C0089~~HJ~~, 25007C0091~~HJ~~, 25007C0093~~HJ~~, 25007C0094~~HJ~~, 25007C0111~~HJ~~, 25007C0113~~HJ~~, 25007C0181~~HJ~~, 25007C0182~~HJ~~ and 25007C0201~~HJ~~, dated ~~July 6, 2010~~ July 20, 2016. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated ~~July 6, 2010~~ July 20, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Officials.

### **6.7-3 Base Flood Elevation Levels**

The coastal area of the Town shall have Base Flood Elevation Levels established as Zones AE, AO and VE.

### **6.7-4 Flood Plain Permits**

Permits for all proposed construction and uses of land within the Flood Plain Districts shall be required for the following:

- A. New construction of residential or non-residential structures.
- B. Substantial improvement (as defined) of any existing structure.
- C. The addition to existing structures of increased water, electric or sewage and septage systems which shall conform to the rules and regulations adopted by the Board of Health.
- D. Alterations of the land form (as defined).

### **6.7-5 Requirements**

All Flood Plain Permits granted under Section 6.7-4 shall be subject to the following provisions:

- ~~A.~~ Any new construction or substantial improvement to be undertaken within the Flood Plain District shall be in accordance with the Massachusetts State Building Code, or Town bylaws if more restrictive.
- ~~B.~~ ~~The lowest floor of any new and substantially improved residential structures shall be elevated to or above the base flood elevation level.~~ In the Coastal District, Subsection 6.1-6(A), height shall be measured from the base flood elevation.

C. In any new residential structure, there shall be no basement, and upon the making of a substantial improvement no new basement shall be installed.

~~D. The lowest floor of any new and substantially improved non-residential structures shall be elevated to or above the base flood elevation level or be floodproofed (as defined) to this level.~~

All new and replacement utility and water facilities shall be located and constructed to minimize or eliminate flood damage.

E. 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.

F. Approval for any alteration of the land form (as defined) shall be obtained from the Zoning Board of Appeals by Special Permit. No alteration of the land form shall be permitted where there may be the liability of altering the drainage or run-off to the detriment of other landholders of the Town. Before granting a special permit for the alteration of the land form, the Zoning Board of Appeals shall duly consider any recommendations by the Conservation Commission and the Planning Board.

~~G. In Zones AO, for new construction and substantial improvements it is required that:~~

~~1. Residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on Dukes County's Flood Insurance Rate Map.~~

~~2. Non-residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on Dukes County's Flood Insurance Rate Map or to be floodproofed (as defined) to or above that level.~~

#### **6.7-6 Additional Requirements in V (Velocity) Zones**

If proposed construction or alteration of the land form is located within a V Zone (as defined), all Flood Plain Permits granted under Section 6.7-4 shall be subject to the following additional requirements:

~~A. All new construction within the V Zones (as defined) shall be located landward of the reach of mean high tide.~~

~~B. All new construction and substantial improvement within the V Zones shall be elevated on adequately anchored pilings or columns so that the lowest floor (excluding the pilings or columns) is elevated to or above the base floor level. A registered professional engineer or architect shall certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.~~

~~C. All new construction and substantial improvements within the V Zones shall have the space below the lowest floor free of obstructions and shall be constructed with breakaway walls (as defined) intended to collapse under stress without jeopardizing the structural~~



~~support of the structure so that the impact on the structure by abnormally high tides or wind driven water is minimized. Such temporarily enclosed space shall not be used for human habitation.~~

~~D. The use of fill for structural support of buildings within the V Zones is prohibited.~~

E. A Man-made alterations of sand dunes within the V Zones is prohibited.

### **6.7-7 Special Permits**

A. The Zoning Board of Appeals may grant a special permit in the case of:

1. Non-residential structures such as boathouses, boatyards, or structures designed for education and research, the nature of which requires their location within the Flood Plain District.
2. Restoration and reconstruction of structures listed in the National Register of Historic Places or the official State Inventory of Historic Places.

B. Special permits shall only be issued upon a determination by the Zoning Board of Appeals that:

1. Failure to grant the special permit would result in hardship to the applicant,
2. The granting of the special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense or conflict with existing local bylaws, and,
3. The relief granted is the minimum necessary considering the flood hazard.

C. Following the granting of such special permit, the Zoning Board of Appeals shall notify the applicant in writing that the issuance of a special permit to construct a structure below the base flood level will result in:

1. Increased premium rates for flood insurance, and
2. Increased risks to life and property.

D. The Zoning Board of Appeals shall maintain a record of special permits including the justification for their issuance.

### **6.7-8 Administration**

The Building/Zoning Inspector shall administer this bylaw as follows:

- A. Review proposed construction and alteration of the land form (as defined) within Flood Plain Districts to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal, State, or Town bylaw.
- B. Obtain and maintain records of the elevation (in relation to Mean Sea Level) of the lowest floor, including basement, of all new or substantially improved structures. In addition, maintain records as to whether or not such structures contain a basement.

- C. If a structure has been floodproofed, obtain and maintain records of the elevation (in relation to Mean Sea Level) of the lowest floor and the elevation to which the structure was floodproofed. In addition, maintain records of floodproofing certification which have been prepared by registered professional engineers and architects in relation to the adequacy of floodproofing methods.

#### **6.7-9 Notification of Watercourse Alteration**

*In a riverine situation the land owner shall notify the following of any alteration or relocation of a watercourse:*

- *Adjacent Communities*
- *Bordering States*
- *Conservation Commission*
  
- *NFIP State Coordinator*  
*Massachusetts Department of Conservation and Recreation*  
*251 Causeway Street, Suite 600-700*  
*Boston, MA 02114-2104*
- *NFIP Program Specialist*  
*Federal Emergency Management Agency, Region I*  
*99 High Street, 6<sup>th</sup> Floor*  
*Boston, MA 02110*

#### **6.7-10 Reference to Existing Regulations**

~~*The floodplain district bylaw is part of a federal requirement for communities that choose to participate in the NFIP. However, the state already administers regulations that take care of many floodplain management concerns. Referencing existing regulations is important to ensure that the projects have been reviewed under the appropriate state regulations and that variances to the conditions of the bylaw do not erroneously allow variances to state requirements.*~~

*The Floodplain District is established as an overlay district to all other districts. All development in the district, 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 following;*

- *Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;*
- *Wetlands Protection Regulations, Department of Environmental Protection (DEP) (Currently 310 CMR 10.00);*
- *Inland Wetlands Restrictions, DEP (currently 310 CMR 13.00);*
- *Coastal Wetlands Restrictions, DEP (currently 310 CMR 12.00) (e communities only)*
- *Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5):*

*Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.*

#### **6.7-11 Other Use Regulations**

1. *All subdivision proposals must be designed to assure that:
 
  - a. *such proposals minimize flood damage;*
  - b. *all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and*
  - c. *adequate drainage is provided to reduce exposure to flood hazards.**

**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 36:** To see if the Town will vote to amend the following section of the zoning bylaw by adding the italicized text.

#### 8.5-4 Swimming Pools

##### A. Pools, General

1. In-ground swimming pools of any depth and above and on-ground swimming pools, as defined *in the applicable provisions of the Massachusetts State Building Code governing swimming pools, in effect at the time the application is submitted*, shall be enclosed by a fence at least 4 feet in height which meets all the requirements of State Building Code.
2. Lighting of pools shall comply with the requirements of Section 8.6.
3. Pools must be in compliance with the regulations of *Massachusetts State Building Code*.
4. In order to minimize noise impacts on neighbors, associated noise-producing pool equipment shall be located as far as possible from abutting properties, and at least the minimum required setback and shall be installed in a sound insulated enclosure.

##### B. Pools Permitted by Right

1. An on-ground portable pool may be allowed by a permit from the Zoning and Building Inspector provided that it does not exceed 250 sq. feet in area and 4' in height, or involve structural materials or any type of mechanical pool equipment.
2. All such pools must be in compliance with the regulations and requirements of *the Massachusetts State Building Code in effect at the time the application is submitted.*

C. Pools by Special Permit

1. All other on-ground pools and in-ground and above-ground pools, spas and exercise pools meeting the definitions of *the Massachusetts State Building Code in effect at the time the application is submitted.*

**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 37:** To see if the Town will vote to approve the following bylaw:

**Plastic Checkout Bag Bylaw**

**1. Findings and Purpose**

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

- Because plastic bags are lightweight, they easily become airborne even when properly disposed of, littering beaches, roadsides and sidewalks. They clog storm drainage systems, contribute to marine and terrestrial pollution, and detract from the natural beauty of the Town for visitors and residents alike.
- Plastic bags photo-degrade, disintegrating into minute particles which adsorb toxins and pose a threat to riparian and marine environments, contaminating the food chain, water and soil. They are also a menace to marine life, killing birds, marine mammals, sea turtles and fish each year through ingestion and entanglement.
- The vast majority of plastic bags are not recycled, and recycling of plastic bags is not available on Martha's Vineyard. Their disposal adds to the Town's waste management expense, both through the cost of transporting waste to off-island landfills and due to their contamination of the single-stream recycling system.

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

1.3 The Town is committed to protecting the environment and the public health, safety, and welfare of its citizens. The goal of this bylaw is to reduce the common use of plastic checkout bags and to encourage the use of reusable bags by consumers, thereby reducing local land and marine pollution, advancing solid waste reduction, protecting the Town's unique natural beauty and irreplaceable natural resources, and improving the quality of life for the citizens of the Town.

**2. Definitions**

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

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

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

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

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

### **3. Use Regulations**

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

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

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

- a. to transport loose produce, prepared food, bulk food, or small unpackaged products (e.g. beads and nails or other small hardware items) to the point of sale; or
- b. to contain or wrap foods to retain moisture or to segregate foods (like meat or ice cream) or other items to prevent contamination or damage when the items are placed together in a Recyclable Paper Bag or Reusable Bag.

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

### **4. Administration and Enforcement**

4.1 This bylaw may be enforced by any Town Police Officer or agent of the Board of Health.

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

- first violation: a written warning.
- second violation: \$50 fine.
- third and subsequent violations: \$100 fine.

Each day the violation continues constitutes a separate violation.

## 5. Effective Date

5.1 This bylaw takes effect on January 1, 2017.

**(RECOMMENDED 4-0)**

**ARTICLE 38:** To see if the Town will vote to amend the existing deadline for warrant articles or subjects now appearing in the Town Bylaws in the part entitled "Annual Town Meeting Date" by deleting the first sentence of the second paragraph ["All articles or subjects to be acted upon at the Annual Town Meeting to be held on the second Tuesday of April shall be filed with the Selectmen on or before the first Tuesday in February preceding said second Tuesday of April when the warrant shall be closed."] and inserting in place thereof, the following language:

All Articles or subjects to be acted upon at the Annual Town Meeting to be held on the second Tuesday of April shall be filed with the Selectmen on or before the first Tuesday of the January preceding said second Tuesday of April when the warrant shall be closed.

**(NO ACTION 4-0)**

**ARTICLE 39:** To see if the Town will vote to amend the following bylaw to add the language that is underlined:

WATER SOURCE - for Fire Department

To require (an) individual(s) who subdivide(s) land into (4) four lots or more or develops (4) Dwelling Units or more on a lot, to indicate water source(s); and, if not sufficient for firefighting, establish a water source for this purpose; said source to be approved by the Fire Chief after plans are presented to the Planning Board for their consideration.

**(RECOMMENDED 4-0)**

**ARTICLE 40:** To see if the Town will vote to amend the zoning bylaw by relocating the following section:

Section 6.2-4 D 1 will be relocated to, and become "Section 6.3-4 C:"

Any development, other than for historical preservation, shall be prohibited within forty feet of a Special Place of Historic value as listed on the Special Places Register of the Martha's Vineyard Commission.

**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 41:** To see if the Town of West Tisbury will vote to amend Section 6.2-4, Special Ways, of the zoning bylaw by replacing the existing language with the following proposed language:

#### 6.2-4 Special Ways

##### A. Special Ways Definition and Purpose:

The Special Ways designation protects old cart paths and trails that are cultural and historic links to the community's past, recreational resources for the enjoyment of the outdoors, a conservation resource to accommodate and promote non-motorized forms of travel, links to other trails and roads, and spaces of quiet beauty. The goal of the regulation is to preserve the character of the old ways, retain the abutting landscape, and prevent the injurious effects that would accompany development of the Ways as a primary vehicular route.

Special Ways are often old roads which have been abandoned or used infrequently. They are usually unimproved, rustic and narrow, and generally have very little or no vehicular traffic. The oldest Special Ways are among the last vestiges of the travel network of the past. They may provide archeological resources or means of retracing historic accounts of the development of West Tisbury.

Special Ways vary in terms of their present and potential recreational and vehicular use. They may provide or allow for public access or they may be private. Determination of whether the public has the right to use a Special Way often involves complex legal principles but such a determination is not necessary for an old way to be designated a Special Way.

The Special Ways Zone includes the path or road and adjacent land within 20 feet of either side of the centerline.

Special Ways are designated after a process involving a public hearing, approval of the Martha's Vineyard Commission, and a 2/3 vote of Town Meeting.

Designated Special Ways:

Reference in this section to the West Tisbury Assessors Maps are to the maps dated January 1, 1990 unless otherwise.

- Old Holmes Hole Road: Beginning at the Massachusetts State Highway at West Tisbury Assessors Map 10, Lot 195, and running Southwest, ending at Old County Road South of Assessors Map 21, Lot 18.
- Old Courthouse Road: Beginning at the Northern portion of Assessors Map 25, Lot 1, and running along its Western bound to Old County Road.

- Tiah's Cove Road: Beginning where it intersects the Western bound of Assessors Map 36, Lot 9, continuing North-Northeast on the Eastern side of Assessors Map 36, Lots 7 & 8, and Map 30, Lot 1.1, intersecting with Scrubby Neck Road/Watcha Path.
- Scrubby Neck Road and Watcha Path: Beginning at the Edgartown Road at Assessors Map 31, Lot 102.12, running Southeast (see relocation by Planning Board action in 1998), then overlaying with the access road of the Thomas Thatcher subdivision, running across the Southern point of Assessors map 31, Lot 104.2 heading Southeast through Map 31, Lots 106.3 and 106.4 (see relocation by Planning Board action in 1994), continuing Southeast through Map 30, Lot 5.2 and turning East along the Southern bound of Map 30, Lot 2.32, continuing East through the Magid subdivision parallel to the access road when the road runs East to West and the Northern portion of Map 30, Lot 10.2 and the Southern portion of Map 30, Lot 2.85, crossing Deep Bottom Road turning Southeast over the Northern portion of Map 36, Lots 17.2 and 17.11, continuing along the Northern bound of Map 36, Lots 23 and 28 and shown as a 40 foot laid-out way North of Map 38, lot 1, continuing East then turning Northeast at the Southern bound of Map 37, Lot 56, and continuing to the Edgartown town line.
- Roger's Path and Burying Ground Road: Beginning approximately 60 feet on South Indian Hill Road from the intersection of Christiantown Road and Indian Hill Road and running South to connect with the Burying Ground Road and ending at the Massachusetts State Highway West of Map 22, Lots 40.1 and 9.
- Stoney Hill Path a/k/a head of the Pond Road: Beginning at its intersection with Old Holmes Hole Road at the Southern bound of Map 10, Lot 19.1 running Northeasterly across Old County Road and continuing until it merges with Stoney Hill Road at the Southeastern most corner of Map 10, Lot 199.9. (2008 maps)
- Checamo Path a/k/a Checama Path a/k/a Little Pond Road: Beginning at its intersection with Stoney Hill Path at the Western most point of Map 10, Lot 196 running Southeasterly to the Tisbury town line at the Northeastern corner of Map 18, lot 1. (2008 maps)
- Pine Hill Road: beginning at Old County Road at the Southern point of Assessors Map 26, Lot 14.1 opposite the Sheriff's Meadow parking lot at Nat's Farm, proceeding Northerly along the West boundary of said lot and continuing Northerly until the Northwest point of Assessor's Map 21, lot 13 where Pine Hill Road intersects Dr. Fisher Road. (2014 map)
- Red Coat Hill Road/Motts Hill Road: Beginning at the Tisbury town line on the South side of the Easternmost point of Assessor's map 8, Lot 24 and continuing



Westerly and becoming Motts Hill Road to the intersection of Ben Chase Road and proceeding under the name Motts Hill Road Southwesterly to the intersection with Merry Farm Road between Assessor's Map 8, lot 22.3. (2014 map)

- Shubael Weeks Road: Beginning at the Tisbury town line at the Northernmost point of Assessor's Map 8, lot 31 and proceeding southerly to its intersection with Ben Chase Road at the southern point of Assessor's Map 8, Lot 25 continuing southerly crossing Merry Farm Road and intersecting Beaten Path near the northern most point of Assessor's Map 8, Lot 26.4. (2014 map)
- Old Coach Road: Beginning at the intersection with the Old Holmes Hole Road a/k/a Old Mail Road at the eastern corner of Assessor's Map 16, Lot 125.2, and proceeding southwesterly and westerly approximately 1,450 feet to the southeastern boundary of Assessor's Map 16, Lot 118 at the juncture of lot 125.28. (2014 map)

#### B. Uses Permitted:

Any residential, recreational, agricultural or open space use permitted in the respective zoning district, subject to the regulations of Section 6.2-4, provided that the development does not result in direct vehicular access to the Special Way.

#### C. Regulations:

1. 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.
2. There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent routine maintenance and repair of Special Ways.
3. No Special Way shall be paved with any impervious material, such as bituminous concrete or asphalt, except for segments that may be approved for crossing over a Special Way.
4. 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 or where the width of a Special Way Zone extends beyond a pre-existing fence or beyond where a fence may be allowed.
5. No stone wall shall be moved, removed or otherwise altered except for repair, except by Special Permit from the Planning Board.

6. No fences, walls, structures, excavations, fill or obstructions shall be made, erected, placed or constructed within the Special Way Zone except by Special Permit from the Planning Board, except for gates, bars or stiles designed to regulate passage for non-vehicular travel or for vehicular travel where allowed. However, pre-existing, non-conforming constructions and clearings may be maintained, but may not be expanded.

Fences exception: Where the Special Way lies within any part of a building lot that is less than one acre in area, fences may be erected within the Special Way as follows:

- Fence must be at least 50% transparent (such as picket fence or split-rail fence).
  - If fence height is under 4 feet, the fence must be at least 5 feet from the center line or 1 foot outside the top edge of the physical embankment alongside the Special Way, whichever is greater.
  - If fence height is 4 to 6 feet, the fence must be at least 10 feet from the center line.
7. Relocation of a portion of a Special Way may be approved by the Planning Board by Special Permit, after 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. Relocation may be considered for the purpose of aligning Ways with property lines. However it is beyond the jurisdiction of the Planning Board to either grant or extinguish public or private rights-of-way by such action.
  8. Where direct vehicular access is not allowed on the Special Way, vehicles may cross such a way by a proposed dirt, paved or otherwise improved roadway at, or nearly at, right angles. Proposed crossings must be reviewed and approved by the Planning Board by Special Permit. Vehicles may not use this provision to travel along the Way for any distance to gain access to a property. Consideration of such proposed crossings shall include appropriate means to draw attention to the crossing for people's safety. Proposed crossings must be reviewed and permitted by the Planning Board by Special Permit.

#### D. Special Ways Regulations Relating to Vehicular Use:

1. Vehicular use is permitted by right if the Way was so used prior to acceptance of a Special Way nomination by the Martha's Vineyard Commission. The nature and

extent of pre-existing vehicular use may not be increased without a Special Permit from the Planning Board.

2. In planning development along a Special Way resulting in increased vehicular use of the Way, every effort must be made to minimize the length of the Special Way travelled by vehicles, for example through driveway placement.
3. Development or subdivision of land along a Special Way may not use the Special Way for new access if alternative access is reasonably available.
4. Criteria to be used by the Planning Board in review of Special Permit applications for new or increased vehicular use:
  - a. A landowner wishes to develop or sub-divide his land and no other access is reasonably available. In this case, the access points must be located as close as possible to the end of the Way nearest a road or as close as possible to the nearest portion of the Way already traveled by vehicle.
  - b. In the case of sub-division of the property, a single access driveway or road onto the Special Way is preferred.

E. Additional Consideration:

1. The Planning Board may grant a Special Permit for other development, uses or structures for which the imposition of regulations would otherwise deprive the landowner of all other reasonable uses.

**(REQUIRES A 2/3 VOTE, RECOMMENDED 4-0)**

**ARTICLE 42:** To see if the Town will vote to Raise and appropriate the sum of One Hundred Sixty Thousand Dollars (\$160,000) to pay the Town's share of the Up-Island Regional School District's renovation of the playground at the West Tisbury School providing design, procurement, construction and any costs incidental and relative thereto.

**(BY PETITION, NOT RECOMMENDED 4-0)**

And you are directed to serve this Warrant by posting attested copies thereof in not less than six (6) public places in West Tisbury fourteen days at least before the holding of such meeting.

Hereof fail not and make due return of this Warrant with doings thereon to the Town Clerk at the time and place of Meeting aforesaid.

Given under our hands this Twenty Third Day of March in the Year Two Thousand Sixteen.

\_\_\_\_\_  
Cynthia E. Mitchell  
Chair

\_\_\_\_\_  
Richard R. Knabel

\_\_\_\_\_  
Jeffrey S. "Skipper" Manter

WEST TISBURY SELECTMEN

DATE:

I have posted attested copies of the above Warrant in not less than six (6) public places in West Tisbury fourteen (14) days before such meeting.

\_\_\_\_\_  
Timothy A. Barnett  
Constable

A true copy, attest: \_\_\_\_\_  
Tara J. Whiting  
Town Clerk