

The meeting was called to order by the Moderator at 7:10 pm who declared a presence of a 5% quorum, there being 221 qualified voters present. All articles were duly moved, seconded and voted upon. There were five floor amendments. The meeting was adjourned at 9:55 pm

**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 Elementary School**, Old County Road, in said Town on **Tuesday the Eighth day of April, Two Thousand Fourteen**, 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 Tenth Day of April, at Twelve O'Clock Noon** 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 Twelve O'Clock Noon** 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 Treasurer for One Year
- One Tax Collector for One Year
- One Town Clerk for One Year
- One Tree Warden for One Year
- One Constable for Three Years
- Two Members of the Finance Committee for Three Years
- One Member of the Finance Committee for Two Years
- Two Library Trustees for Three Years
- One Member of the Planning Board for Five Years
- Two Members of Parks and Recreation for Three Years
- One Land Bank Commissioner for Three Years

QUESTION 1: Shall the town vote to have its elected Treasurer become an appointed Treasurer of the Town?

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

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 2015.

(RECOMMENDED 5-0)

PASSED AS AMENDED Line item 313-5600(MVRHS District) to \$2,522,665.41 (reduction of \$16,629.59); final budget is \$15,854,097.41

ARTICLE 4: To see if the Town will vote to authorize the following expenditures in order to defray Town Capital Expenses for Fiscal Year 2015, consistent with the Town’s Capital Improvement Plan:

Project	Expense	Funding Source
Police: Vehicle	\$33,200	Raise and Appropriate

(See also the full FY 2015 Capital Improvements Budget immediately following the FY 2015 Budget Proposal in the 2013 Annual Report.) **(RECOMMENDED 5-0)**

MOTION TO POSTPONE INDEFINATELY PASSED

ARTICLE 5: To see if the Town will vote to amend the Personnel Bylaw at Sections 26-3, 26-4 and 26-5 to reflect a wage adjustment of 1.5% effective July 1, 2014. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 6: To see if the Town will vote to authorize the Treasurer and Collector to enter into Compensating Balance Agreements during Fiscal Year 2015 as permitted by M.G.L. c.44, §53F. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 7: To see if the Town will vote to Raise and Appropriate the sum of Twenty Thousand Dollars (\$20,000) to hire a consultant to prepare a Classification Plan and Compensation Plan, in consultation with the Personnel Board. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 8: To see if the Town will vote to Raise and Appropriate the sum of Thirty Eight Thousand Five Hundred Ninety-Three Dollars (\$38,593) to fund the Town of West Tisbury’s share of the administrative expenses of the Dukes County Regional Housing Authority in Fiscal Year 2015; provided however, that the other five towns on Martha’s Vineyard vote in the affirmative to raise and appropriate their respective sums. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 9: To see if the Town will vote to Raise and Appropriate the sum of Fifteen Thousand Dollars (\$15,000) to transfer to the Terminated Employees Compensated Absences Reserve Fund as provided for by M.G.L. c. 40, § 13D. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 10: To see if the Town will vote to Appropriate from Free Cash the sum of Sixty Thousand Dollars (\$60,000) to the Dukes County Pooled Other Post-Employment Benefits (OPEB) Trust. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 11: 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 2015, 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:

FUND	REVENUE SOURCE	AUTHORITY TO SPEND FUNDS	USE OF FUNDS	SPENDING LIMITS
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 5-0)

PASSED UNANIMOUSLY

ARTICLE 12: To see if the Town will vote to Appropriate from Free Cash the Sum of Twenty Five Thousand Dollars (\$25,000) to be placed in the Building Maintenance Stabilization Fund. **(2/3 VOTE REQUIRED, RECOMMENDED 5-0)**

PASSED UNANIMOUSLY **YES 221 NO 0**

ARTICLE 13: To see if the Town will vote to Appropriate from Free Cash the sum of Ten Thousand Dollars (\$10,000) to increase budget line 193-5700, Town Insurance, from the sum of Seventy Three Thousand Three Hundred Twenty Three Dollars and Fifty Six Cents (\$73,323.56) to the sum of Eighty Three Thousand Three Hundred Twenty Three Dollars and Fifty Six Cents (\$83,323.56). **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 14: To see if the Town will vote to Appropriate the sum of Eighty Two Thousand Six Hundred Eighty Two Dollars (\$82,682), 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 FY2014 state allocation which will be reimbursed by the Commonwealth of Massachusetts and is therefore considered an available fund. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 15: 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 5-0)**

PASSED UNANIMOUSLY

ARTICLE 16: To see if the Town will vote to Appropriate from Free Cash the sum of Fifteen Thousand Dollars (\$15,000) to add to the \$15,030 appropriated in Article 15 of the 2013 Annual Town Meeting for the purpose of conducting a study of the Mill Brook Watershed. **(RECOMMENDED 4-1)**

PASSED UNANIMOUSLY

ARTICLE 17: To see if the Town will vote to Appropriate from Free Cash the Sum of Ten Thousand Dollars (\$10,000) to be used to initiate repairs of the town-owned building on Old Courthouse Road currently used by the Highway Department. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 18: To see if the Town will vote to Raise and Appropriate the sum of Seventy Thousand Dollars (\$70,000) to be placed in the Fire Equipment Stabilization Fund. **(A 2/3 VOTE REQUIRED, RECOMMENDED 5-0)**

PASSED UNANIMOUSLY **YES 221 NO 0**

ARTICLE 19: 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, FY2015 revenues, in the following amounts to the following:

- a. Open Space reserve \$5,000
- b. Historical Resources reserve \$45,000 (10% of estimated FY2015 Community Preservation Fund revenues)
- c. Community Housing reserve \$45,000 (10% of estimated FY2015 Community Preservation Fund revenues)
- d. Undesignated reserve \$292,500 (65% of estimated FY2015 Community Preservation Fund revenues)

Note: The above allocations to Reserves combined with actual Appropriations awarded in subsequent articles ensure that at least 10% allocations are made for Open Space, Historical Resources and Community Housing from FY2015 estimated Community Preservation Fund revenues.

And to Appropriate for the FY2015 Administrative Expenditures of the Community Preservation Committee \$22,500 (5% of estimated FY2015 Community Preservation Fund revenues). **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 20: To see if the Town will vote to Appropriate the sum of Forty Thousand Dollars (\$40,000) from estimated FY2015 Community Preservation Fund revenues for Open Space to support debt service for the acquisition of the Maley/Field Gallery property. This is the third of four annual installments authorized by vote at the Annual Town Meeting in April 2011. **(RECOMMENDED 5-0)**

PASSED UNANIMOUSLY

ARTICLE 21: To see if the Town will vote to Appropriate the sum of Seventy Five Thousand Dollars (\$75,000) to repair and replace the West Tisbury Cemetery Fence with \$10,000 to be appropriated from the Community Preservation Historic Resources reserve and \$65,000 to be appropriated from the Community Preservation Undesignated reserve. The award of Community Preservation Funding is contingent upon the Historic District Commission review of the project and a more detailed plan for construction. **(RECOMMENDED 4-1)**

PASSED

YES 108 NO 102

ARTICLE 22: To see if the Town will vote to Appropriate the sum of Thirty Thousand Dollars (\$30,000) to replace the roof, some siding and the rear side door of The Old Mill, at 690 Edgartown Rd, Assessors Map 32, Lot 115 with \$10,000 to be appropriated from the Community Preservation Historic Resources reserve and \$20,000 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 4-1)**

PASSED

ARTICLE 23: To see if the Town will vote to Appropriate the sum of Twelve Thousand Dollars (\$12,000) to renovate the Town Ball Field at the West Tisbury School to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 4-1)**

PASSED

ARTICLE 24: To see if the Town will vote to Appropriate the sum of Fifty Thousand Dollars (\$50,000) for predevelopment costs for Phase I and Phase II of the Fire Station Lot Affordable Housing Project which consists of the construction of two rental duplexes on a town owned parcel at 565 Edgartown Rd, part of Assessors Map 31, Lot 36, for persons earning 80% or below the Area Wide Median Income with \$20,000 to be appropriated from the Community Preservation Community Housing reserve and \$30,000 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 4-1)**

PASSED

ARTICLE 25: To see if the Town will vote to Appropriate the sum of Sixty Five Thousand Dollars (\$65,000) to fund the purchase and renovation of an affordable six unit rental apartment building at 14 Village Court, Tisbury by the Island Housing Trust, with \$10,000 to be appropriated from the Community Preservation Community Housing reserve and \$55,000 to be appropriated from the Community Preservation Undesignated reserve with preference for one of the six apartments given to residents who either work in or for the town of West Tisbury and earn between 50% and 60% of the Area Wide Median Income. The total amount of the project is \$894,000. **(RECOMMENDED 3-2)**

PASSED AS AMENDED (earn 60% or less of the)

ARTICLE 26: To see if the Town will vote to Appropriate the sum of Eighty Thousand Seven Hundred Thirty Eight Dollars (\$80,738) to support the Town of Aquinnah in its' efforts to Acquire, Relocate and Restore the Gay Head Lighthouse with \$10,000 to be appropriated

from the Community Preservation Historic Resources reserve and \$70,738 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 3-2)**
PASSED

ARTICLE 27: To see if the Town will vote to Appropriate the sum of One Hundred Four Thousand Dollars (\$104,000) to support the rental assistance program of the Dukes County Regional Housing Authority for West Tisbury households, with \$10,000 to be appropriated from the Community Preservation Community Housing reserve and \$94,000 to be appropriated from the Community Preservation Undesignated reserve.
PASSED (RECOMMENDED 4-1)

ARTICLE 28: To see if the Town will vote to Appropriate the sum of Two Thousand Six Hundred Fifty Dollars (\$2,650) to fund the preservation of actual historical documents in the possession of, or owned by, The Martha's Vineyard Agricultural Society, to be appropriated from the Community Preservation Historic Resources reserve. **(RECOMMENDED 5-0)**
PASSED UNANIMOUSLY

ARTICLE 29: To see if the Town will vote to Appropriate the sum of Twenty Five Thousand Dollars (\$25,000) to support the Martha's Vineyard Little League in Phase II of their construction of a new youth baseball field at Penn Field Oak Bluffs with \$2,000 to be appropriated from the Community Preservation Open Space reserve and \$23,000 to be appropriated from the Community Preservation Undesignated reserve.
PASSED (RECOMMENDED 3-2)

ARTICLE 30: To see if the Town will vote to Appropriate the sum of Eight Thousand Two Hundred Thirty Nine Dollars (\$8,239) to upgrade the electrical service at the Dukes County Courthouse with \$1,000 to be appropriated from the Community Preservation Historic Resources reserve and \$7,239 to be appropriated from the Community Preservation Undesignated reserve. **(RECOMMENDED 3-1-1)**
PASSED

ARTICLE 31: To see if the Town will vote to return the unexpended balance of Ten Thousand Three Hundred Ninety Dollars and Nineteen Cents (\$10,390.19) from the West Tisbury First Congregational Church Restoration Project approved under Article 27 of the 2010 Annual Town Meeting to the Community Preservation Undesignated reserve.
PASSED UNANIMOUSLY (RECOMMENDED 5-0)

ARTICLE 32: To see if the Town will vote to appropriate the sum of Thirty Thousand Dollars (\$30,000) from the Community Preservation Undesignated reserve to be used for design and permitting in preparation for dredging to preserve the Mill Pond, contingent upon the commitment of Twenty Thousand Dollars (\$20,000) from private sources to undertake the design and permitting work which is estimated to cost Fifty Thousand Dollars (\$50,000). Should actual costs fall short of the \$50,000 estimate; costs will be split between the CPC and private funding on a proportional, (3 to 2) basis. Design and permitting work will be conducted in tandem with the Mill Brook Watershed Study which was approved by the Town under article 15 of the Warrant for the Annual Town Meeting in April 2013, and dredging work will not proceed before additional Town Meeting action and the completion of both the design and permitting work and the watershed study. **(NO ACTION 3-2)**
FAILED YES 100 NO 119

ARTICLE 33: To see if the Town will vote to Raise and Appropriate the sum of Five Thousand Dollars (\$5,000) to construct a 30' sidewalk at the front of the Alley's parking lot.
PASSED (NOT RECOMMENDED 3-2)

ARTICLE 34: To see if the Town will vote to transfer the sum of Eighteen Thousand Dollars (\$18,000) from the Fire Department Personal Service (Line 220-5129) to Expenses (Line 220 – 5700) for building repairs and maintenance on Station One and Two.
PASSED UNANIMOUSLY (RECOMMENDED 5-0)

ARTICLE 35: To see if the Town will vote to Raise and Appropriate the sum of Thirteen Thousand Four Hundred Eighty Two Dollars (\$13,482) to fund the Town of West Tisbury's

share of the administrative expenses of the All Island School Committee's contract for adult and community education in Fiscal Year 2015. **(RECOMMENDED 3-2)**
PASSED

ARTICLE 36: To see if the Town of West Tisbury will vote to Raise and appropriate the sum of Thirty One Thousand Three Hundred Forty Two Dollars (\$31,342) as the Town's proportionate share of the fiscal year 2015 adjusted cost (\$208,950.00) for the Vineyard Health Care Access Program, based on a formula agreed upon by the Advisory Board on County Expenditures. **(RECOMMENDED 3-2)**
PASSED

ARTICLE 37: To see if the Town will vote to Appropriate from Free Cash not to exceed the sum of Forty Thousand Dollars (\$40,000) to be transferred to the West Tisbury Library Building project to complete the Library expansion project. **(RECOMMENDED 4-1)**
PASSED

ARTICLE 38: To see if the Town will vote to Appropriate from Free Cash the sum of Four Hundred Thirty-Five Thousand Dollars (\$435,000) to reduce the tax levy in Fiscal Year 2015. **(RECOMMENDED 5-0)**
PASSED UNANIMOUSLY

ARTICLE 39: To see if the Town will vote to amend the Capital Improvements Planning Committee by-law by replacing the following existing sentence in Section 1: **"The Town Treasurer shall also be a committee member, the Town Accountant shall be an ex-officio committee staff member without the right to vote."** in its entirety with the following revised sentence: **"The Town Treasurer and the Town Accountant shall be ex-officio committee members."** **(RECOMMENDED 5-0)**
PASSED

ARTICLE 40: To see if the Town will vote to amend Section 26-1 (Year Round Classification Plan) to add the position of Town Treasurer at Grade L subject to approval of the voters to change the Treasurer's position from an elected office to an appointed office. In the event this measure passes at the Polls, this amendment shall take effect immediately. **(RECOMMENDED 4-1)**
PASSED

ARTICLE 41: To see if the Town will vote to amend the Zoning Bylaw by adding a new Section concerning the requirements for Solar Energy Systems, as set out below, and by re-numbering existing Sections 8.10-1 through 8.10-10 concerning Large Scale Ground Mounted-Solar Arrays to Section 8.10-5 through 8.10-5.9 in order to be sequential with the new Solar Energy Bylaw Requirements proposed in this article.

8.10 General Requirements for all Solar Energy Systems.

8.10-1 Purpose

The purpose of this bylaw is to promote the use of solar energy by providing standards for the placement, design, construction, operation, monitoring, modification and removal of solar energy installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

8.10-2 General Requirements

The following requirements are common to all solar energy systems:

A. Compliance with laws: The construction and operation of all proposed solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

B. Expiration: A permit issued pursuant to this bylaw shall expire if the solar energy system is not installed and functioning within 24 months from the date the permit is issued or the solar energy system is abandoned.

C. System conditions: Owners of solar energy systems shall be responsible for maintaining them in good condition. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures. The Building Inspector shall inspect the installation at his discretion and enforce according to Section 10.2 of this by-law.

D. The owner of the Solar Energy System shall remove it within 60 days if the Building Inspector or Health Agent determines that it has become a nuisance or hazard.

E. Access to the site shall be maintained at a level acceptable to the local Fire Chief and Emergency Services. The project owner shall be responsible for the cost of maintaining the solar energy system and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.

F. A Solar Energy System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials.

G. The manufacturer and equipment information, warning, or indication of ownership shall be allowed on any equipment of the Solar Energy System provided they comply with the prevailing sign regulations.

H. Reasonable efforts shall be made to place all utility connections from solar energy installations underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

I. Modifications: Any material modifications to a solar energy system that would require a special permit, that is made after issuance of any approval issued pursuant to this bylaw, shall require approval by the Zoning Board of Appeals as provided in this bylaw, except normal maintenance and replacement of components.

J. Violations: It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this bylaw or with any condition contained in an approval or permit issued pursuant to this bylaw.

8.10-3 Solar Array Uses Permitted by Right:

1. Building-Mounted and/or Integrated Solar Energy System:

A. A solar energy system shall be considered to be building-mounted and/or integrated if it is designed to be permanently mounted on a building or other structure. This definition applies to solar energy systems of any capacity that are designed to be operated in direct contact with a building.

B. Building- mounted and/or integrated solar energy systems shall not be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Building Inspector.

C. Building- mounted solar energy systems must not exceed the overall building height limits of the underlying district and shall not extend beyond the existing roof.

D. Building- mounted and/or integrated energy systems may be located in any zoning district.

2. Ground-Mounted and Pole-Mounted Solar Energy System:

A. The maximum size for a ground-mounted Solar Energy System is a panel area of 1,500 square feet.

B. A ground-mounted Solar Energy System shall not exceed 12 feet in height.

C. The minimum setback distance from the property lines to a ground-mounted Solar Energy System shall be equal to the primary building setback requirement. A ground-mounted Solar Energy System shall not be located within the front yard, defined as the area between the front façade of the dwelling extended to the side property lines and extending to the street line (corner lots have two (2) front facades).

- D. A ground-mounted Solar Energy System shall limit the impacts on the surrounding properties, maintain safe accessibility, and limit storm water runoff.
- E. A ground-mounted Solar Energy Systems shall not be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Building Inspector.
- F. Ground-mounted Solar Energy Systems may be located in any zoning district.

8.10-4 Solar Energy Systems Allowed with Special Permit:

- A. Ground-Mounted systems larger than 1,500 square feet of panel area.
- B. Ground or Pole-Mounted Systems taller than 12 feet.
- C. Ground or Pole-Mounted Systems located within a front yard.

In granting a Special Permit, the Zoning Board of Appeals shall consider the following:

1. The possible effects on agricultural or aqua cultural uses;
2. Effects on special habitats and endangered species;
3. Neighborhood character;
4. Visual impact;
5. Screening;
6. Erosion and drainage;
7. Solar access.

8.10-4.1 Required Documents for Solar Energy Systems Requiring a Special Permit

The Zoning Board of Appeals may waive any of these requirements or impose other conditions as necessary.

- A. A Site Plan showing:
 1. Property lines and physical features, including roads, for the project site;
 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, vegetative or other screening of structures;
- B. Blueprints or drawings of the solar energy installation showing the proposed layout of the system;
- C. One- or three-line electrical diagram detailing the solar energy installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and over current devices;
- D. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- E. Name, address, and contact information for proposed system installer;
- F. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- G. The name, contact information and signature of any agents representing the project proponent;
- H. Documentation of actual or prospective access and control of the project site;
- I. An operation and maintenance plan;
- J. Proof of liability insurance;

8.10-4-2 Dimensional and Density Requirements

- A. Setbacks: setbacks shall be as follows:
 - where the proposed site abuts the RU district: 50 feet;
 - where the proposed site abuts the LI district: 20 feet.
- B. Appurtenant Structures: All appurtenant structures to solar energy installations shall be subject to Zoning Bylaw Article IV, Dimensional and Density Regulations, concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation or other means and/or joined or clustered to avoid adverse visual impacts.

8.10-4.3 Design Standards

A. Lighting: lighting of solar energy installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded down to protect abutting properties, per Zoning Bylaw Section 8.6. Lighting of the solar energy installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

B. Signage: Signs on solar energy installations shall comply with Zoning Bylaw Section 8.4 (Sign Regulations). A sign consistent with the Town's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number. This sign shall be visibly displayed at the entrance to the installation. Solar energy installations shall not be used for displaying any advertising and may be used for the identification of the manufacturer or operator of the solar photovoltaic installation only.

C. Prevention of Access: All solar energy installations shall be constructed to prevent unauthorized access.

8.10-4.4 Safety and Environmental Standards

A. Emergency Services: solar energy installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town's Fire Chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

B. Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation may be limited to what is necessary for the construction, operation and maintenance of the solar energy installation or otherwise prescribed by applicable laws, regulations, and bylaws.

8.10-4.5 Monitoring and Maintenance

A. Solar Energy Installation Conditions: The solar energy installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Access to the site shall be maintained to a level acceptable to the Fire Chief and other emergency services providers. The owner or operator shall be responsible for the cost of maintaining the solar energy installation and any access road(s), unless accepted as a public way.

B. Modifications: All material modifications to a solar energy installation made after issuance of the required building permit shall require approval by the ZBA.

C. Abandonment or Decommissioning

1. Removal Requirements: Any solar energy installation, which has reached the end of its useful life or has been abandoned consistent with 8.10-10C2, below, shall be removed. The owner shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the ZBA by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of:

a. Physical removal of all solar energy installations, structures, equipment, security barriers and transmission lines from the site;

b. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations;

c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The ZBA may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar energy installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the ZBA. If the owner fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation at the owner's expense.

Solar Energy Systems that require a Special Permit are prohibited in the Roadside District and the Shore Zone of the Coastal District. **(2/3 VOTE REQUIRED) (RECOMMENDED 4-0-1) PASSED AS AMENDED: Remove "the Roadside District" YES 180 NO 0**

ARTICLE 42: To see if the Town will vote to amend the Town of West Tisbury Zoning Bylaw by adding the following changes:

Amend Section 4.2-1, Dimensions Table, (pg 11), as follows:

ADD: *for setback relief see Section 4.3-3 D

Amend Section 4.2-2 E, Dimensional Table; Interpretation of Dimensional Requirements (pg 13), as follows:

To be added to the existing language:

A detached bedroom is limited to 300 square feet, and one lavatory shall be allowed. No kitchen or cooking facility shall be allowed, and the structure is limited to a maximum of 300 square feet.

Amend Section 4.3-2, Exceptions to Dimensional and Density Requirements, “Height Exceptions” (pg 13), as follows:

To be added as section “F”

Personal Wireless Service Facility (PWSF’s) may exceed height limitations via Special Permit per Section 8.8.

Amend Section 4.3-3, Exceptions to Dimensional and Density Requirements (pg 14)

To be added as section “D”

Exceptions to Lot Frontage “and Setback” Requirements.

The Board of Appeals may, after a public hearing, grant a special permit to build, alter or extend a structure so that it is setback less than the minimum distances specified above in Section 4.1 if, in the opinion of the Board of Appeals, the proposed structure and use will not have a material detrimental effect upon the established and future character of the neighborhood and town; and, provided further, that the Board of Appeals finds that other lots in the neighborhood have been previously developed by the construction of buildings or structures in such a manner to have resulted in similar nonconformities and that the proposed construction would be in character with the general pattern of development in the neighborhood.

Amend Section 8.5-1, Home Occupations (pg 49), as follows:

In the Use table (pg 7),

ADD: *8.5-1 B after Home Occupations.

Amend Section 8.8-11 D, Personal Wireless Service Facilities, (pg 65), as follows:

To delete the word “Administrator” and to change the word “shall” to “may”:

1. If the applicant has not submitted two alternatives, the ZBA may hire a consultant to prepare two alternatives.
2. If the applicant has submitted two or more alternatives, the ZBA may hire a consultant to prepare at least one alternative.

Amend Section 3.3-1, USE TABLE as follows:

1. To be removed from the RU District: “KENNEL”
2. To be added to the Use Table: “STUDIO” permitted by right (P) in all districts.
3. To be added to the “Use Table under the “Residential Uses” section:

Solar Energy Systems: Permitted in all districts☼

☼A Special Permit is required by the Zoning Board of Appeals for arrays larger than 1500 square feet, for ground mounted arrays higher than 12 feet, and for arrays located within a front yard, see Section 8.10-4C.

Amend the Definitions Section as follows:

Attic- A space located directly below the pitched roof of a house or other building.

Barn - A structure erected for the storage of farm products, feed, fertilizer, farm machinery, and/or the sheltering of farm animals.

Garage- A structure erected to provide shelter for motor vehicles, tools and yard equipment.

Loft- An upper story open space found directly below the pitched roof of a house or other building.

Shed-A structure erected for storage.

Storage-A non-habitable space used for storing dry goods.

Kitchen- A room or area where food is prepared or cooked.

(2/3 VOTE REQUIRED)(RECOMMENDED 5-0)

PASSED AS AMENDED: Change “300 square feet to 400 square feet” YES 154 NO 4

ARTICLE 43: To see if the Town will vote to approve the following regulations:

TOWN OF WEST TISBURY BOARD OF HEALTH REGULATIONS

Board of Health Regulation, Section 17

THE CONTENT AND APPLICATION OF FERTILIZER FOR TURF ON MARTHA'S VINEYARD, TOWN OF WEST TISBURY

SECTION 1. FINDINGS

1.1 This Section details the public health and ecological foundations for the regulation of the use of fertilizer on turf in West Tisbury.

1.2 In appropriate concentrations, nitrogen in the form of oxides plays a critical role in the nitrogen cycle and is essential to life. In excess, these forms of nitrogen represent an environmental pollutant that has the potential to harm our water resources, and ultimately damage human health. Excessive amounts of nitrogen, as well as phosphorus, contribute to undesirable algal and aquatic plant growth, and degrade the water used for drinking and shellfishing as well as swimming and boating.

1.3 Algal blooms cause our ponds and harbors to become increasingly anaerobic, with seabeds robbed of oxygen and devoid of aquatic life, and cloudy water columns filled with dense algal and aquatic plant growth. The algal bloom brings with it human health risks. Depending on the type, quantity and route of exposure, symptoms from algae blooms vary from skin and eye irritations to gastrointestinal and asthma-like symptoms, with children and pets being particularly susceptible.

1.4 West Tisbury's groundwater is also at risk from nitrogen infiltration. Rising nitrogen levels in our Island ponds are caused in major part by rising nitrogen content in our groundwater. The groundwater/aquifer underlying West Tisbury is the source of its existing and future drinking water supply and should be preserved and protected from excess nitrate infiltration. Ingested nitrates are converted by the body into nitrites, which are capable of converting hemoglobin into an oxidized form that does not bind tightly to blood oxygen. Infants, young children, pregnant women and some people with compromised immune systems who drink water in excess of established Safe Drinking Water Standards are particularly vulnerable and may become seriously ill if untreated. The Island's municipal and well water supply is an outstanding asset, one that is safe now and should be protected going forward.

1.5 The Island of Martha's Vineyard in its entirety has significant amounts of glacially deposited coarse, sandy soils that are subject to rapid water infiltration, percolation, and leaching of nutrients into its groundwater that flow ultimately into the Island's harbors, embayments, salt ponds and coastal resources, including the water and wetland resources of West Tisbury. Additionally, soils associated with terminal moraine and glacial till contribute to rapid runoff into streams feeding coastal water bodies. These unique geologic, topographic and hydrographic characteristics require innovative soil management practices. The adoption of specific turf and soil fertilization requirements across the Island, including West Tisbury, is necessary to protect the water and wetland resources of the Island, including West Tisbury's.

1.6 The six towns comprising Martha's Vineyard have engaged the Massachusetts Estuaries Project ('Estuaries Project') to undertake analyses of many of the harbors, embayments, salt ponds and coastal resources in the Island towns and to prepare reports detailing the nutrient loading from multiple sources, including fertilizers. The Estuaries Project considers fertilizers a locally controllable source of water degradation. This is very significant as it is anticipated that the State will require all Massachusetts towns to bring the nutrient levels of their coastal ponds, harbors and other water resources to within recognized acceptable water quality standards established in the federal Clean Water Act.

1.7 As of the date of the enactment of this Regulation, Estuaries Project reports have been completed for West Tisbury Great Pond, Farm Pond, Lagoon Pond, Sengekontacket Pond and Tisbury Great Pond. In addition, the Massachusetts Department of Environmental Protection has established the maximum amount of a pollutant that four of these ponds can receive and still safely meet water quality standards (known as "Total Maximum Daily Loads" or "TMDLs"). (TMDLs for Tisbury Great Pond are under consideration as of the date of the

enactment of this Regulation.) Similar studies are currently underway for Cape Pogue, Chilmark Pond, Katama Bay, Menemsha Pond, Oak Bluffs Harbor, Oyster Pond, Pocha Pond, Squibnocket Pond and Tashmoo Pond. In due course, TMDLs will be established for all of these participating water bodies.

1.8 Of the fourteen coastal ponds and harbors participating in the Estuaries Project, eight have watersheds that encompass portions of more than one town, suggesting that an Island-wide, coordinated approach is necessary for effective management of water quality in these ponds.

1.9 The responsible application of fertilizers rests not only with property owners, but also with professional landscapers whose work takes them across the Island without regard to town or watershed boundaries. Coordinated regulation of fertilizers across the Island will facilitate the educational process for landscapers and will avoid confusion that might arise if fertilizer regulations were materially different from town to town.

1.10 The West Tisbury Board of Health, recognizing that excessive use of fertilizers is part of the overall problem of nutrient pollution, promulgates this Regulation regarding the use of fertilizer on turf. As a parallel effort, the BMPs Working Group has assisted the Island town Boards of Health in drafting the *Best Management Practices for Landscape Fertilizer Use on Martha's Vineyard*, which is based on the *UMass Amherst Extensions' Best Management Practices for Soil and Nutrient Management in Turf Systems*, both of which from time to time may undergo changes in response to scientific research.

1.11 The practices and standards set out herein are deemed necessary to protect the public health, including the maintenance of drinking water quality and the preservation of our water and wetland resources. They also represent an early step in achieving compliance with applicable water quality standards. This Regulation is intended to allow our Island's waters to be both sustainable and sustaining, while affording reasonable use of fertilizers for the enhancement of lawn quality.

1.12 It is anticipated that compliance with this Regulation will be achieved primarily as a community responsibility and as consequence of the adoption of a common standard of turf care in respect of both the sale and application of Fertilizer. This regulation provides for educational initiatives to enable this process to occur. To supplement these community-based activities, this Regulation also provides for an enforcement process applicable to those who apply Fertilizer in violation of the standards set out in this Regulation.

SECTION 2. PURPOSE

This Regulation provides for a reduction of nitrogen and phosphorus going into West Tisbury's Water Resources by means of an organized system of education, licensure, regulation of practice, and enforcement. The Regulation is intended to contribute to West Tisbury's ability to protect, maintain, and ultimately improve the water quality in all its Water Resources and assist in achieving compliance with any applicable water quality standards relating to controllable nitrogen and phosphorus.

SECTION 3. AUTHORITY

This Regulation is adopted by the West Tisbury Board of Health as authorized by Massachusetts General Laws, Chapter 111, Section 31 and is further authorized pursuant to the Fertilizer Management District of Critical Planning Concern designation, [detail authority], and by section 9 of Chapter 262 of the Acts of 2012, as amended.

SECTION 4. DEFINITIONS

For the purposes of this Regulation, the following words shall have the following meanings unless the context clearly indicates a different meaning:

"Agriculture" means farming in all of its branches and the cultivation and tillage of the Soil, the production, cultivation, growing, and harvesting of any agricultural, floricultural or horticultural commodities. For the purposes of this Regulation, agriculture means production for commercial sale.

“Application Fee” means a fee in the amount of \$100.

"Best Management Practices for Landscape Fertilizer Use on Martha's Vineyard" or "Martha's Vineyard BMPs", means a sequence of activities designed to minimize Fertilizer use while also promoting healthy vegetative growth, as prepared by a working group of Island landscape professionals, golf course superintendents, Health Agents, landscape retailers, and conservationists.

"Board of Health" means the West Tisbury Board of Health whose members are elected by the voters of West Tisbury to oversee public and environmental practices through the actions of its Health Department.

“Buffer Zone” means the area abutting a Resource Area within which no alteration (as that term is defined in Commonwealth's Wetland Protection Act or the West Tisbury Wetland Protection Bylaws and Regulations) is permitted without an Order of Conditions or a Negative Determination from the West Tisbury Conservation Commission.

"Compost Tea" means a liquid infusion of Organic Compost but, for the purposes of this Regulation, is not considered a Slow Release Fertilizer.

"Fertilizer" means a substance that enriches the Turf or Soil with elements essential for plant growth, such as nitrogen, phosphorus, or other substances. Fertilizer also includes 'combination products', sometimes referred to as 'weed and feed', which contain Fertilizer in combination with pre- or post-emergence herbicides, insecticides, other pesticides or plant growth regulators. Fertilizer does not include those substances that are normally excluded from Fertilizer such as dolomite, limestone, or lime.

“Golf Course” means the managed (i.e. mowed and fertilized) Turf at each of Chappaquiddick Golf Club, Farm Neck Golf Club, West Tisbury Golf Club, Mink Meadows Golf Club, and Vineyard Golf Club.

"Health Agent" means the individual who has direct oversight of the daily activities of the Board of Health.

"Horticulture" is a general term meaning plant science and plant products. For the purposes of this Regulation, horticulture means the raising of flowers, fruits, vegetables, berries, herbs, nuts, and other similar products for commercial sale.

"Impervious Surface" means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, but does not include compacted areas on athletic fields, such as baseball infields, and intensely trafficked Turf.

"Landscape Professional" means a person, either as a sole proprietor or as an employee of a company or a municipality, who in exchange for money, goods, services, or other consideration applies Fertilizer to Turf. A Landscape Professional includes Turf management staff at a Golf Course.

"License" means that documentation issued by West Tisbury authorizing the individual or commercial entity holder to apply Fertilizer in West Tisbury.

"Licensee" means a Landscape Professional who has a valid License.

“Liquid Fertilizer” means a form of Fertilizer which typically is sprayed directly onto a plant.

“Martha's Vineyard Lawn Fertilizer Working Group” means the group of individuals from the six Island towns, including landscape professionals, golf course superintendents, Conservation Commissioners, Selectmen, Board of Health Commissioners/members and Health Agents, and Martha's Vineyard Commission members, who met and consulted with members of the public representing these and other constituencies to draft this Regulation.

"Organic Compost" is a Slow Release form of Fertilizer comprised of the biologically stable, non-pelletized, humus-like material derived from composting or the aerobic, thermophilic decomposition of organic matter.

"Participating Town" means an Island town that has voted to adopt regulations governing the use of Fertilizer that are substantially similar to this Regulation.

"Property Owner" means the owner of record of the Turf or Soil to which Fertilizer is applied (and, for the avoidance of doubt, includes West Tisbury).

"Relevant Employee" means a person engaged (as an employee, agent, contractor or otherwise) by a Landscape Professional who applies Fertilizer to Turf or Soil.

"Resource Area" means an area subject to protection under the Commonwealth's Wetland Protection Act or the West Tisbury Wetland Protection By-Laws or Regulations.

"Slow Release" in relation to nitrogen, means nitrogen in a form that delays its availability for uptake and use after application, and is not rapidly available to Turf. Slow Release is also sometimes referred to as 'controlled-release', 'timed-release' or 'slowly soluble/available'. This definition expressly excludes nitrate salts and urea.

"Soil" means the upper-most layer of the earth's surface, comprised of mineral and organic matter, which can host biological communities.

"Soil Test" means a technical analysis of Soil conducted by a Soil testing laboratory that measures extractable nutrient values using a Modified Morgan soil testing procedure and making recommendations based on values as determined by the University of Massachusetts Extension Soil and Plant Tissue Testing Lab.

"West Tisbury" encompasses the land and water of the Town of West Tisbury on the island of Martha's Vineyard, County of Dukes County.

"Turf" means grass-covered Soil held together by the root system, and includes turf used for sports and recreational activities as well as for lawns and utility areas.

"Water Resource" includes, without limitation, groundwater, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, vernal pools, ponds, lakes, marine waters, canals, lagoons, embayments, estuaries and all waters defined in Massachusetts General Laws, Chapter 131, Section 40 and the West Tisbury Wetland By-Laws or Regulations.

SECTION 5. TURF PERFORMANCE STANDARDS

5.1 General Turf Performance Standards

5.1.1 No person shall apply Fertilizer between November 15th and the following April 15th.

5.1.2 No person shall apply Fertilizer to Turf or Soil immediately before or during heavy rainfall when the Lawn or Soil is likely to be saturated with water, when the Turf or Soil has the characteristics of an Impervious Surface or when they are showing signs of stress due to drought, or any other time when the Fertilizer is unlikely to be taken up by the Turf root structure.

5.1.3 No person shall apply or deposit Fertilizer on any Impervious Surface or on any place or in such a manner as would allow the Fertilizer to enter into storm drains or other storm flowage receptacles and/or channels. If a person inadvertently applies or deposits Fertilizer to an Impervious Surface by spill or otherwise, or applies or deposits Fertilizer as prohibited in this section, that person must immediately remove the Fertilizer.

5.1.4 No person shall apply Fertilizer containing more than 0.5 pounds of nitrogen per 1000 square feet of Turf *per application*, provided, however, that a single application of

Fertilizer between April 15 and June 1 and a single application of Fertilizer in September may contain up to .75 pounds of nitrogen per 1000 square feet of Turf. Cumulative applications of Fertilizer must not exceed 3.0 pounds of nitrogen per 1000 square feet of Turf per year. Fertilizer shall not be applied within 4 weeks of a prior application. For the purposes of this Regulation, Fertilizer applied by all persons to the same Turf will be aggregated.

5.1.5 No person shall apply Fertilizer unless it contains at least 50% of its nitrogen in the Slow Release form. Compost Tea and Liquid Fertilizer are exempt from this standard, provided that no single application exceeds 0.1 pounds of nitrogen per 1000 square feet over a 4-week period.

5.1.6 No person shall apply Fertilizer that contains phosphorus, unless a Soil Test taken within the prior 3 years indicates a phosphorus deficiency of less than 14 ppm, in which case the phosphorus application shall be limited to the quantity specified in the test results. A Soil Test is not required for the application of:

- (a) Organic Compost;
- (b) specially labeled 'starter' Fertilizer products intended for use in establishing Turf or in repairing damaged Turf when applied in conjunction with Turf seed;
- (c) Compost Tea; and
- (d) pelletized organic Fertilizer whose phosphate content by weight is no greater than 25% of its nitrogen content by weight.

5.2 Fertilizer in the Buffer Zone

5.2.1 The Turf performance standards set out in Sections 5 (not including Section 5.1.4) apply to the Buffer Zone, except as modified in this Section 5.2.

5.2.2 No Fertilizer may be applied in the 10-foot wide strip running parallel and immediately adjacent to a Resource Area. In the remainder of the Buffer Zone, no person shall apply Fertilizer containing more than 0.25 pounds of nitrogen per 1000 square feet of Turf *per application*, with cumulative applications not to exceed an annual maximum of 0.5 pounds of nitrogen per 1000 square feet of Turf, except that where there is a continuous 25-foot wide strip of Fertilizer-free, non-Turf vegetation running parallel to the Resource Area, Fertilizer may be applied to the area beyond the 25 foot strip to an annual maximum of 1.0 pound of nitrogen per 1000 square feet of Turf.

5.2.3 No person shall apply Fertilizer that contains phosphorus in the Buffer Zone, unless a Soil Test taken within the prior 3 years indicates a phosphorus deficiency of less than 14 ppm, in which case the phosphorus shall be limited to the quantity specified in the test results.

5.3 Fertilizer on Golf Courses

5.3.1 The performance standards set out in Section 5 (not including Section 5.1.6) apply to Fertilizer applied on Golf Courses except as modified in this Section 5.3.

5.3.2 Applications of Fertilizer to Golf Courses shall not be made between December 15 and the following April 15th.

5.3.3 Liquid Fertilizer may not be applied more often than every two weeks, provided that it is applied at a rate not to exceed 0.1 pound of nitrogen per 1000 sq. ft. per application.

5.3.4 The performance standards set out in Section 5.2.2 do not apply to putting greens and tee boxes in the Buffer Zone in existence at the effective date of this Regulation.

5.4 **Exemptions:** The following activities are exempt from Section 5:

5.4.1 Application of Fertilizer to home vegetable and flower gardens, landscape ornamentals, shrubs, trees, bushes, and container plants.

5.4.2 Application of Fertilizer for Agricultural or Horticultural use.

5.5 Precedence: To the extent that the Commonwealth of Massachusetts or West Tisbury has enacted, enacts, or issues any law, regulation, bylaw, order or permit concerning the application of Fertilizer containing phosphorus or nitrogen on Turf or Soil which is more stringent than the performance standards set in this Section 5, those more stringent standards take precedence.

SECTION 6. EDUCATION, LICENSURE AND ADMINISTRATION

6.1 Education and Assessment

6.1.1 The Board of Health shall:

(a) maintain and offer for a fee a general program of Fertilizer education for Property Owners and Landscape Professionals that is based on this Regulation and the Martha's Vineyard BMPs; and

(b) administer an assessment to determine a Professional Landscaper's or a Property Owner's proficiency with respect to this Regulation and the Martha's Vineyard BMPs following completion of the general education program.

6.1.2 The Board of Health shall make available to the public, including Property Owners, Landscape Professionals and Fertilizer retailers a summary of the Section 5 performance standards, as well as a copy of this Regulation, as amended from time to time.

6.2 Licensure

6.2.1 No Landscape Professional shall apply Fertilizer in West Tisbury without a License issued by the Board of Health in accordance with this Regulation.

6.2.2 Subject to Section 6.2.3, an application for a License shall be accompanied by the Application Fee and documentation that the applicant has both completed the general program of Fertilizer education referred to in Section 6.1.1(a) and achieved proficiency as set forth in Section 6.1.1(b).

6.2.3 Upon issuance of a License to an applicant, West Tisbury shall forward a "Notice of Issuance of Fertilizer License" to each other Participating Town nominated by the Applicant.

6.2.4 When West Tisbury receives a "Notice of Issuance of Fertilizer License" from any Participating Town, the Board of Health shall issue and mail (or email or otherwise forward) a License to the applicant. The payment of a fee and the production of additional documentation shall not be required.

6.2.5 A License shall indicate the License number and expiration date and shall be signed by the Licensee.

6.2.6 Licenses shall be effective on issue and shall continue in effect for three calendar years, expiring on the third December 31 after being issued.

6.2.7 Licenses may be renewed on application. Applicants for renewal must provide documentation of either re-completion of the general program of Fertilizer education or proficiency, as set out in Section 6.1.1, and pay the Application Fee.

6.2.8 A Landscape Professional licensed under this Regulation shall keep his/her License in their possession and shall display the License when requested to do so by any West Tisbury enforcement officer.

6.2.9 A Relevant Employee does not need to obtain a License, provided his/her employer maintains a ratio of not less than 1 Licensee to 8 non-Licensed Relevant Employees (the License held by the employer/owner being included for this purpose) and:

(a) the employer has provided the Relevant Employee with training sufficient to ensure that the employee fully understands this Regulation and the Martha's Vineyard BMPs;

(b) the Relevant Employee has demonstrated proficiency with respect to this Regulation and the Martha's Vineyard BMPs in accordance with an assessment tool provided by the Board of Health and administered by the employer;

(c) the employer provides supervision appropriate to ensure that the Relevant Employee complies with this Regulation; and

(d) the employer retains documentation sufficient to establish compliance with subsections (a), (b) and (c).

These requirements set out in (a) and (b) above must be complied with not less often than every three years and within 6 months after any material amendments to this Regulation for each Relevant Employee.

6.3 Services to be Performed by a Third Party: The Board of Health may appoint from time to time a third party to perform on its behalf the responsibilities and services set out above in Sections 6.1 and 6.2.

6.4 Liability

6.4.1 A Property Owner is liable for violations of this Regulation by a Landscape Professional or its Relevant Employees, including applying Fertilizer without a License, provided that the Property Owner knew or should reasonably have known that a violation would occur.

6.4.2 A Landscape Professional is liable for violations of this Regulation by its Relevant Employees.

6.4.3 Notwithstanding Sections 6.4.1 and 6.4.2, any person who applies Fertilizer in violation of this Regulation may be held liable.

6.5 Enforcement

6.5.1 The Health Agent and the Board of Health may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

6.5.2 Subject to Section 6.5.3, a person who violates any provision of this Regulation is subject to:

(a) in the case of a first violation within a consecutive 36-month period, a written warning;

(b) in the case of a second violation within a consecutive 36-month period, a fine in the amount of \$50.00;

(c) in the case of three or more violations within a consecutive 36-month period, a fine in an amount of \$300.00 per violation, unless the Town proceeds by criminal complaint or indictment under Section 6.5.6, in which case the maximum fine for the third and subsequent violations is provided therein; and

(d) in the case of a Licensee (or a Relevant Employee), and subject to the notice and hearing provisions of Section 6.5.4, suspension of the License (or that of his/her employer, as the case may be) for 180 consecutive days or revocation of that License.

6.5.3 A Licensed Professional who applies Fertilizer without having a valid License is subject to:

(a) in the case of a first violation within a consecutive 36-month period, a written warning;

(b) in the case of two or more violations within a consecutive 36-month period, a fine in the amount of \$300.00 unless the Town proceeds by criminal complaint or indictment under Section 6.5.6, in which case the maximum fine for the second and subsequent violations is provided therein.

6.5.4 The Board of Health may suspend or revoke a License issued pursuant to this Regulation or any other applicable law. Such revocation or suspension may only take place after a hearing held by the Board of Health of which the Licensee shall be given seven (7) days written notice. Such notice shall be deemed given upon certified return receipt mailing same to the address listed on the License application.

6.5.5 The Board of Health is authorized to penalize any person who violates these regulations by issuing a ticket under the noncriminal disposition process provided for in Massachusetts General Laws Chapter 40, Section 21D, and the Town's noncriminal disposition by-law, Sections 1-2, 1-3, 1-4, 1-5 and 1-6 of the Code of the Town of West Tisbury. If noncriminal disposition is elected, then any person who violates any provision of this Regulation shall be subject to the penalties provided in Sections 6.5.2 and 6.5.3, as applicable, per violation or, in the case of a continuing violation, per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If there is more than one violation, each shall constitute a separate offense.

6.5.6 A person who violates any provision of this Regulation may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000). Each day or portion thereof shall constitute a separate offense. If there is more than one violation, each shall constitute a separate offense.

SECTION 7. SEVERABILITY CLAUSE

If any section, part or provision of this Regulation is deemed invalid or unconstitutional by a court of competent jurisdiction, that decision shall not affect the validity of the remaining terms of this Regulation as a whole or any part thereof, other than the section, part or provision held invalid or unconstitutional.

SECTION 8. AMENDMENTS

8.1 This Regulation was developed by a broad group of stakeholders representing diverse interests and has been reviewed by soil and turf scientists and educators. Therefore, notwithstanding the requirements of G.L. c. 111, §31, no amendment to this Regulation shall be adopted until such time as the Board of Health shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the Town and County once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing. No such amendment shall be effective unless the proposed amendment has been reviewed and commented upon by soil and turf scientists and educators and it is passed by the Board of Health.

8.2 Further, since these Regulations are also under Chapter 831 of the Acts of 1977, as amended, any amendments to the Regulations shall first be approved by the Martha's

Vineyard Commission, as conforming to the guidelines for the Fertilizer Management District of Critical Planning Concern.

SECTION 9. EFFECTIVE DATE

This Regulation shall take effect on January 1st 2015 and upon publication pursuant to G.L. c. 111, §31.

SECTION 10. INTERIM PROVISIONS

Landscape Professionals may apply Fertilizer without a license during the interim period between the effective date of this Regulation and the development of a licensing program by the Board of Health, provided that they comply with Section 5 of this Regulation.

**PASSED UNANIMOUSLY (2/3 VOTE REQUIRED)(RECOMMENDED 5-0)
YES 154 NO 0**

Non-binding Resolution:

“We the people of the Town of West Tisbury respectfully request that Governor Deval Patrick use the power of his office to require that the Nuclear Regulatory Commission uphold their mandate to responsibly decommission and shut down Entergy’s Pilgrim Power Station in Plymouth, MA because the public safety, particularly that of Cape and Island residents, cannot be assured.”

PASSED UNANIMOUSLY

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 5th Day of March in the Year Two Thousand Fourteen.

Richard R. Knabel
Chair

Jeffrey S. “Skipper” Manter

Cynthia E. Mitchell

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