

West Tisbury Land Preservation Version June 29, 2026

(based on Tisbury article passed at Spring 2026 Town Meeting)

ARTICLE XX – LAND PRESERVATION

To see if the Town will vote to adopt the following Bylaw

01.01 Land Preservation: Clearcutting and Erosion (Title?)

01.01.01 Purpose

Protect the health, safety, privacy, quality of life, rural character, and property values of the residents of West Tisbury by regulating land-clearing and grading activities. Prevent erosion and sedimentation into inland and coastal wetlands, ponds and other waterbodies, and control stormwater runoff, avoiding impacts to the Town's most environmentally significant contiguous native forest, vegetation, wildlife communities, soils and natural topography, while preserving trees and vegetation.

01.01.02 Definitions

For the purposes of this section:

Certified Arborist: An arborist holding current International Society of Arboriculture (ISA) certification or Massachusetts Certified Arborist.

Clearcutting and clearing: Removal or causing to be removed through either direct or indirect actions trees, scrubs, understory, and/or topsoil from a site. Actions considered to be clearing include but are not limited to: causing irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any filling, excavation, grading, or trenching in the root area of a tree or shrub which has the potential to cause irreversible damage.

DBH (Diameter at Breast Height): Diameter of a tree trunk measured at 4.5 feet above mean natural grade.

Grading: Excavation, filling, leveling, or other alteration of existing land contours.

Setback: Minimum distance between lot line and any structure, as specified in West Tisbury Zoning Bylaw Dimensional Table Section 4.2-1 plus Section 4.3.

Soil Disturbance: Any activity that exposes, removes, compacts, or relocates soil, including excavation, trenching, and stripping of topsoil.

Vegetation Clearing: Cutting, removal, or destruction of trees, shrubs, or ground cover.

01.01.03 Applicability

This bylaw applies to all land zoned RU, as defined in the West Tisbury Zoning Bylaw, including smaller "Homesite" lots per community housing bylaw 4.4-7.

All property modifications are subject to erosion control and stormwater runoff measures in accord with management best practices.

A Special Permit from the Planning Board is required before any clearcutting, vegetation clearing, soil disturbance, grading, or alteration of topography exceeding the thresholds in Table 1 is undertaken, unless specifically exempted under 01.01.05.

Homestead lots with ½ acre or less may encroach into the setback areas without a Special Permit.

Table 1: Basic Limits for Land Clearing and Grading

Size	Land Disturbance without a Special Permit
Homesite lot ½ acres or less	Max 60%
Lot size ½–3 acres	Max 50%
Lot size 3–5 acres	Max 35%
Lot size 5–10 acres	Max 25%
Lot size greater than 10 acres	Max 20%

1.01.03 a. Clearing includes all such activity for building footprints, construction access, utility trenching, paving, and topographic alteration and landscaping. The minimum front, side, and rear areas designated in setbacks shall be preserved from clearing, disturbance, paving, and grading, except for purposes of access and exemptions under 01.01.05.

1.01.03 b. The percentages in Table 1 are applied to total lot area including jurisdictional wetlands but excluding open water as determined by the Conservation Commission.

1.01.03 c. No lot shall have more than the applicable Table 1 percentage of its total area in a cleared or disturbed state at any time, measured cumulatively across all past* and current clearing, disturbance, and grading.**

For discussion with Planning Board, ZBA, ConCom:

- Measured cumulatively across the preceding 10 years regardless of the number of projects or changes in ownership.*
- Where a lot has been created by subdivision of a larger parcel after the effective date of this bylaw, the clearing threshold for each resulting lot shall be calculated against the Net Upland Area of the original pre-subdivision parcel, apportioned pro rata by the respective Net Upland areas of the resulting lots; prior clearing on the original parcel within the preceding ten (10) years shall be allocated proportionally to all resulting lots.*

Note: This will require notations of clearing events be made in the property record or Building Inspector's record.

01.01.04 Relationship to Other Permits

Where a project requires a Special Permit under this section and another Special Permit under this bylaw, the Planning Board may consolidate review. A separate Special Permit under this section is not required where the Board determines the nine standards of 01.01.08 have been addressed in another Special Permit review for the same project. This section does not alter any Conservation Commission approval requirement under MGL c. 131.

01.01.05 Exemptions

1. Removal of individual hazardous trees as determined by the Tree Warden or a Certified Arborist.
2. Routine maintenance of native vegetation, mowing of open meadows and scrubby areas, including containment of species prohibited by state law or regulation.
3. Maintenance of a 30-foot fire protection zone around any structure, which may encroach into setback areas.
4. Maintenance of public streets and utilities within Town-approved layouts and easements.
5. Work reviewed under another Special Permit where the Planning Board has applied the standards of 01.01.08.
6. On a Homesite lot smaller than 0.5 acres (2,1780 square feet) or less, clearing and grading may encroach into setback areas.
7. Any tree or vegetation removal associated with restoring native ecological habitats consistent with and as approved by West Tisbury Boards (Conservation Commission, Planning Board, or Zoning Board of Appeals), with guidance from the Massachusetts Division of Ecological Restoration and/or the Massachusetts Natural Heritage & Endangered Species Program.
8. Forest cutting practices, pursuant to [MGL c. 132](#) on land devoted to forest purposes covering five (5) acres or more (wood lot). Owner must demonstrate bona fide forestry operation with 10-year management plan. Cutting plan must be approved by Conservation Commission 60 days prior. Non-forestry use is prohibited 20 years post-harvest. Replanting must occur within two (2) years.

01.01.06 Review Procedure

The Planning Board shall transmit a copy of each completed Special Permit application to the Conservation Commission when there are proposed alterations planned in any area under Conservation Commission regulations. The Conservation Commission shall submit comments within 35 days of receipt. The Planning Board shall give due consideration to the Conservation Commission's comments. If no comments are received within the 35-day period, it shall be deemed a lack of opposition by the Conservation Commission.

01.01.07 Submission Requirements

Applications shall include the following, unless the Board determines specific items are inapplicable:

1. Stamped site plan by a surveyor or other design professional showing: vegetational communities (referencing the then-current Martha's Vineyard Commission Vegetation Communities Map or successor map); soil conditions; trees greater than 6" DBH (size, height, species); rare/endangered species habitat within the property per the Massachusetts Natural Heritage and Endangered Species Program; proximity to conservation land, wetlands, waterbodies and wetland buffer zones; applicable overlay zoning districts; and existing and proposed topography.
2. Narrative: explaining the purpose of proposed clearing, disturbance, or grading, and identifying any departures from the standards in 01.01.08.
3. Development and landscaping plans, including all impervious surfaces.
4. Erosion and sedimentation control plan describing Best Management Practices to be employed.
5. A written disclosure of all vegetation clearing, soil disturbance, and grading conducted on the lot within the preceding ten (10) years, including the approximate dates, areas, and character of such activities.

01.01.08 Review Standards

The Applicant shall demonstrate compliance with the following:

1. Minimize alteration. Preserve natural topography and drainage by siting buildings and parking to blend with the landscape. Limit utility clearing to the minimum necessary; utilize tunnels where feasible.
2. Minimize impervious surfaces. Control runoff through natural stormwater systems.
3. Protect scenic views. Site structures so as not to detract from the property's scenic qualities.
4. Protect wildlife habitat. Where the site is within Priority Habitat as mapped by the Natural Heritage and Endangered Species Program, the applicant shall provide evidence of compliance with M.G.L. c. 131A. Further, the site activity/project shall be designed to maintain contiguous forested areas.
5. Preserve trees. Protect retained vegetation with temporary fencing encompassing the root zone, maintained through construction. Retain native trees contiguous with those on adjacent sites to the greatest extent practicable.
6. Minimize cut and fill. Limit grading for structures, driveways, and utilities. Stage construction equipment/facilities in areas planned for permanent improvements. No topsoil stockpiling near protected trees or wetlands.
7. Work with natural contours/elevations. Minimize retaining walls.
8. Erosion control per best management practices in the construction field. Larger projects may necessitate following the MA Erosion Control handbook and will be

determined by the Building Inspector (Or the Planning Board??), or the Conservation Agent?

9. Revegetation: Revegetate disturbed areas promptly using native species. In the case of unavoidable disturbance to native vegetation within the setback and other preserved areas, replanting with native vegetation appropriate to habitat and soil type (as per Polly Hill Arboretum or other island guidelines) should begin as soon as reasonably possible. Any new vegetation planted pursuant to this bylaw shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting or be replaced with appropriate vegetation and maintained in good health for a further twenty-four (24) months.

01.01.09 Monitoring and Compliance

The Planning Board/Conservation Agent/Building Inspector shall inspect the site at intervals including, but not limited to: (a) before clearing or grading begins to confirm erosion controls and tree protection are in place per the approved plan; (b) after clearing is complete but prior to commencement of construction, to confirm compliance with the approved clearing limits and tree protection conditions; and (c) upon completion of any revegetation required under the Special Permit, to confirm compliance with §07.12.08(9). Erosion controls shall remain until disturbed areas are stabilized. The Board may require additional inspections by a qualified professional at the applicant's expense as a condition of the Special Permit.

The Board may require inspection before removal of temporary controls. Violations of this section are subject to enforcement by the Planning Board, Conservation Agent, or Building Inspector.

As a condition of any Special Permit issued under this section, the Planning Board/Conservation Agent/Building Inspector may require a performance bond or equivalent financial assurance in an amount sufficient to cover the estimated cost of all required revegetation and erosion control measures, to be released upon the Board's written confirmation that such measures have been satisfactorily completed.

The Town of West Tisbury may take any or all of the enforcement actions prescribed in this section to ensure compliance with and/or remedy a violation of this bylaw; and/or when immediate danger exists to the public or adjacent property, as determined by the West Tisbury Zoning Inspector or Designee.

The West Tisbury Building Inspector may post the site with a Stop Work order directing that all vegetation clearing and other site alteration activities not authorized under a Site Alteration Permit cease immediately. The issuance of a Stop Work order may include remediation or other requirements that must be met before activities may resume.

The owner of any property on which there has been a violation of the provisions of this bylaw shall be subject to a fine of \$300 plus a cease-and-desist order, pursuant to MGL [c. 40, Section 21D](#) (See Section 7.15), with each day that the violation continues being deemed a separate offense, from the date when the **Zoning Inspector or Designee** first notifies the violator in writing in accordance with the applicable notice requirements,

until detailed site plans have been filed as provided in this Bylaw and approved by the Planning Board.

Compliance Verification:

Performance Bond: For properties valuing \$10 million or more, before starting work permittee shall submit performance bond equal to 150% of estimated restoration cost on projects valuing over \$10 million.

Bond Release: Bond shall be released only after final compliance certification.