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RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND

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TOWN OF WEST TISBURY

**RULES AND REGULATIONS GOVERNING THE SUBDIVISION
OF LAND**

(Adopted under the Subdivision Control Law Sec 81-K to 81-GG inclusive, Ch 41 MGL)

CHAPTER I. PURPOSE

The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions, providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open space.

The preservation of open areas, natural features of the land, the quality of ground and surface waters, and other aspects of environmental quality are of particular importance since West Tisbury remains to this day a rural and agricultural town famed for the excellence of its location and vegetation, its open spaces, vistas, ponds, forests and shore line. The powers of the Planning Board and of the Zoning Board of Appeals under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the cases of fire, flood, panic and other emergencies; for assuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions.

It is the intent of the Subdivision Control Law that any subdivision plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such boards may, when appropriate, waive, as provided for in Section 81-R, such portions of the rules and regulations as is deemed advisable. (From Section 81-M, Chapter 41, MGL)

CHAPTER II. AUTHORITY

Under the authority vested in the Planning Board of the Town of West Tisbury by Section 81-Q of Chapter 41, MGL, said Board hereby adopts these Rules and Regulations Governing the Subdivision of Land in the Town of West Tisbury.

CHAPTER III. GENERAL

SECTION 3.1 DEFINITIONS

"Subdivision" shall mean the division of a tract of land into two or more lots and shall include re-subdivision and, when appropriate to the context, shall relate to the process of subdivision or land or territory subdivided; provided however that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law, if at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon, or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot and, if no distance is so required, such frontage shall be of at least twenty feet. Conveyances of other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision. (Section 81-L of Chapter 41, MGL)

"Preliminary Plan" shall mean a plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof showing (a) the subdivision name, boundaries, north point, date, scale, legend and title "preliminary plan"; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all abutters, as determined from the most recent local tax list; (d) the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimension; (g) the names, approximate location and width of adjacent streets; (h) and the topography of the land in a general manner. (From Section 81-L of Chapter, 41 MGL)

"Applicant": The person who applies for approval or endorsement of a Form A, Form B, or Form C plan or Special Permit. An applicant must be the owner of record of all the land which is the subject of the submitted plan. An agent or his assigns may act for the owner, providing that written evidence of such authorization, including any conditions affecting such authorization, is submitted. The document of authorization must be signed by the owner of record (or the legally designated principal officer, if the owner is a corporate entity), and the signature(s) witnessed by two witnesses. All signatures must be certified and sealed by a notary public. A list of the stockholders and officers and a certified copy of the corporate resolution conferring authority to execute and deliver documents binding upon the corporation shall be submitted by every corporate applicant.

"Road Inspector": Person designated by the Planning Board to perform the following functions:

- 1) review design of proposed roads and drainage for compliance with subdivision regulations and to make recommendations to the Board regarding such design;
- 2) make inspections as required in Section 6.1-12C to ensure that construction or installation is in compliance with these regulations and the approved plan; 3) report to Board regarding status of work in regard to requests for release of performance guarantees.

CHAPTER IV. DIVIDING PROPERTY: PROCEDURE FOR SUBMISSION AND APPROVAL OF PLANS

SECTION 4.1 INTRODUCTION

The Subdivision Control Law recognizes two types of divisions of land. The first, a "subdivision," is defined as the division of a tract of land into two or more lots, including re-subdivision. This type of division is accomplished via a Definitive Subdivision Plan, often referred to as a "Form C Plan." The process for submitting a Definitive Plan is outlined below. Before submitting a Definitive Plan, applicants are urged to submit a Preliminary Plan ("Form B Plan") to the Planning Board and Board of Health for discussion and tentative approval, modification, or disapproval by each board.

The Subdivision Control Law exempts certain divisions from the Definitive Subdivision Plan requirements if specific criteria are met. This second and simpler method for dividing property, is called an Approval Not Required (ANR) Plan, often referred to as a Form A Plan.

SECTION 4.2 ROADS DISTRICT

When access to lots is to be off a Major Road, as designated in Section 6.231 of the Zoning Bylaw, a public hearing in accordance with the Zoning Bylaw Section 6.200 Road District, and District of Critical Planning Concern of the Martha's Vineyard Commission. The Public Hearing must be held by the Planning Board prior to cutting or removal of trees or tearing down or destruction of stone walls within the designated roadway. When the access is subject to definitive plan approval, the scenic roads hearing may be held contemporaneously with the hearing required for the definitive plan. In all cases where the Scenic Roads Act (MGL Ch. 4 S. 15C) or the Road District Section of the Zoning Bylaw is applicable, it shall be the responsibility of the applicant to meet the requirements of the Act or the bylaw.

SECTION 4.3 FORM A, APPROVAL NOT REQUIRED PLANS

4.3-1 Form A Criteria

In order to qualify as an Approval Not Required Plan, the applicant must prove that the proposed division meets one of the following criteria:

A. The division of the tract of land shown on the plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by West Tisbury Zoning Bylaw Section 4.2-1. Each lot on the plan must have frontage on either:

1. a public way or way which the Town Clerk certifies is maintained and used as a public way; or
2. a previously approved subdivision road; or
3. a private way in existence on April of 1973 (the date when the subdivision control law became effective in West Tisbury), having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected thereon.

Please note that the road frontage requirements presented in Zoning Bylaw Section 4.2-1 vary according to zoning district and public vs. private ways.

B. A change in lot lines is not considered a subdivision as long as no lot affected is left without minimum road frontage as required by Section 4.2-1 of the Zoning Bylaw.

C. The division of a tract of land shown on a plan is not a subdivision if two or more buildings were standing on the plan prior to April, 1973 (the date when the subdivision control law became effective in West Tisbury) and one of such buildings remains standing on each of the lots.

4.3-2 Form A Submittal Requirements

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Such plan shall be drawn by a registered land surveyor, and shall contain the following information:

- A. The title in the lower right corner, where possible, stating the name of the plan, date and scale, the names and addresses of the owner, applicant, and the engineer or surveyor who prepared the plan. A north arrow shall be prominently displayed.
- B. A locus map, showing the general location of the subject property (at a scale of 1"=2000').
- C. Names of all abutters as determined from the most recent local tax list, except that plans of registered land shall meet the Land Court requirements for abutters' names.
- D. Lines of existing and proposed streets, ways, lots, and easements on the land which is the subject of the plan. The purpose of any easements shall be indicated on the plan. Widths of all existing and proposed streets and easements shall also be indicated.

E. Areas of all lots, easements or parcels into which the land is to be divided and the area of each lot that is occupied by pond, stream, marshland, swampland, floodplain or other wetland as defined in Section 40, Ch. 131, MGL.

F. The location of any buildings, wells, and septic systems situated on the property being divided.

G. Location of any existing buildings situated within fifty (50) feet of the property being divided, location of any wells and septic systems within one hundred and fifty (150) feet of the property being divided, and the location, names and widths of streets adjacent to or within proximity of the division.

H. Sufficient data to determine the location, direction and length of every street line, lot line and boundary line, and to establish these lines on the ground.

I. Location of all permanent monuments properly identified as to whether existing or proposed.

J. If less than all the applicant's contiguous land is being divided, the size and shape of the remaining land shall be shown as an insert on the plan, at a scale of 1"=200'.

K. The zoning district(s) in which the land is located, including delineation of special overlay district boundaries where applicable.

L. A suitable space for endorsement, with the following note written on the plan below such space: "Endorsement is without regard to buildability or permitted occupancy, does not stay enforcement of zoning violations, and is subject to other notation hereon."

The plan and two prints (to be retained) plus two completed Form A applications (see Appendix) signed by the owner of record or his or her legal representative and a filing fee (see Chapter IX, Fees) should be submitted to the Planning Board at the time of filing. A copy of the registered deed for the property and any documents indicating the property owner of record must be submitted. A notice shall be filed by delivery or registered mail with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.

4.3-3 Form A Endorsement

If the Planning Board determines that the plan does not require approval, it shall without a public hearing and without unnecessary delay endorse on the plan the words "Approval Under the Subdivision Control Law Not Required." The Planning Board may add to such endorsement a statement of reason approval is not required. The plan will be returned to the applicant and the Planning Board shall notify the Town Clerk of its action.

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform the applicant and return the plan. The Planning Board will also notify the Town Clerk of its action.

If the Planning Board fails to act upon a plan submitted under this section within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

SECTION 4.4 PRELIMINARY PLAN

4.4-1 General

A Preliminary Plan of a subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and tentative approval, modification or disapproval by each board. Submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such a subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed Form B application (see Appendix) shall be filed with the Preliminary Plan and submitted to the Planning Board. A filing fee shall be paid to the Planning Board at the time of the filing (see Chapter IX).

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application (Form B).

4.4-2 Contents

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and two prints shall be filed at the office of the Planning Board and one print at the office of the Board of Health. The purpose of the Preliminary Plan is to provide a clear basis for the discussion of its problems and for preparation of the Definitive Plan. Said plan shall be identified as the Preliminary Plan and shall show all the information described under the definition of Preliminary Plan (see Section 3.1) and in addition shall show the site features, such as existing buildings, ponds, streams, wetlands and areas subject to seasonal flooding and if less than all the applicant's land is being subdivided, the Preliminary Plan shall include an insert drawing indicating the size and shape of the remaining land. To aid in consideration of the plan, aerial photographs of the site, as required under 4.5-2N may be submitted with the Preliminary Plan. During discussion of the Preliminary Plan, the Planning Board shall consider the proposed scope of the EIS and the nature and extent of road and other improvements to be required in connection with the approval of any subsequent Definitive Plan and shall advise the applicant of such requirements.

4.4-3 Tentative Approval

The Planning Board may give such Preliminary Plan its tentative approval, with or without modification. Such tentative approval does not constitute approval of a subdivision.

SECTION 4.5 DEFINITIVE PLAN

4.5-1 Filing Requirement

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

A. An original drawing of the Definitive Plan and three contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval. A copy of the Definitive Plan of suitable size for mailing or faxing (8-1/2 by 11 or 8-1/2 by 14 inches) is also required.

B. A properly executed Form C application (see Appendix).

C. The applicant shall file two additional contact prints of the Definitive Plan (with dark line on white background) with the Board of Health.

D. A filing fee (See Chapter IX) for each lot to cover the cost of advertising, notices and map changes. (Also see additional fee for water wells in morainal areas.)

E. The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application (Form C).

4.5-2 Definitive Plan Contents

The Definitive Plan shall be prepared by an engineer or surveyor. It shall be at the scale of one inch equals forty feet or other such scale that the Planning Board may accept to show details clearly and adequately. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. Plan sizes shall be a minimum of eight and one half inches by eleven inches and a maximum of twenty-four inches by thirty-six inches. Plans being presented for recording shall be on linen or polyester film, single matte with a thickness of .004 mils, and must have an opacity so as to allow consistent diazo and microfilm reproduction. All plans shall be prepared using a compatible ink with excellent cohesiveness which will produce a permanent bond and result in a plan with long term durability. Linen or polyester reproductions shall be accepted for recording provided they contain original signatures and comply with other requirements for the recording of plans. Each plan shall have three-quarter inch borders. The minimum letter size on plans presented for recording shall be one-eighth inch and shall include a graphic scale. Each plan shall have an area reserved to receive a Planning Board recitation or contain the surveyor's certification as per Ch. 380, Acts of 1966. Each plan shall have a three and one-half inch square reserved for Registry use. Each plan must contain a certification clause signed by the preparer stating that he/she has conformed with the rules and regulations of the Registry of Deeds in preparing the plan.

The Definitive Plan shall contain the following information:

A. The title in the lower right corner, where possible, stating the name of the plan, date and scale, the names and addresses of the owner, applicant, and the engineer or surveyor who prepared the plan. A north arrow shall be prominently displayed.

B. A locus map, showing the general location of the subject property (at a scale of 1" = 2000').

C. Names of all abutters as determined from the most recent local tax list, except that plans of registered land shall meet the Land Court requirements for abutters' names.

- D. Lines of existing and proposed streets, ways, lots, and easements on the land which is the subject of the plan. The purpose of any easements shall be indicated on the plan. Widths of all existing and proposed streets and easements shall also be indicated.
- E. Areas of all lots, easements or parcels into which the land is to be divided and the area of each lot that is occupied by pond, stream, marshland, swampland, floodplain or other wetland as defined in Section 40, Ch. 131, MGL.
- F. Location of any existing buildings situated within fifty feet of the property being divided, location of any wells and septic systems within one hundred and fifty feet of the property being divided, and the location, names and widths of streets adjacent to or within proximity of the subdivision.
- G. Sufficient data to determine the location, direction and length of every street line, lot line and boundary line, and to establish these lines on the ground.
- H. Location of all permanent monuments properly identified as to whether existing or proposed.
- I. If less than all the applicant's contiguous land is being divided, the size and shape of the remaining land shall be shown as an insert on the plan, at a scale of one inch equals two hundred feet.
- J. The zoning district(s) in which the land is located, including delineation of special overlay district boundaries where applicable.
- K. Proposed street names shall be penciled on the submitted plans and shall be inked in after the street names have been approved by the Planning Board. Each lot shall be given a street number according to the following formula: Starting at the junction with the existing access road, numbers shall be designated consecutively along the road, beginning with one, odd numbers on the right, even numbers on the left, a new number for every twenty-five feet.
- L. There shall be provided on the plans a suitable space for the following endorsements:
1. Approval endorsement
 2. Performance guarantee
 3. Town Clerk's certificate of no appeal
- M. For purposes of notification, the applicant shall submit the names of all abutters within 300 feet of the proposed subdivision as they appear in the most recent tax lists, including all abutters across the street or road from the subdivision. For any subdivision abutting a pond, the riparian owners association address shall also be submitted for notification.
- N. The following documents shall be part of the Definitive Plan application unless specific exemption is voted by the Planning Board:
1. Existing and proposed topography of the land subject to the plan at a suitable contour interval.

2. Existing profiles and proposed profiles on the centerline and the exterior lines of proposed streets at a horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Planning Board.
3. Proposed layout of storm drainage, water supply and all sewerage disposal system.
4. An Environmental Impact Statement, submitted in accordance with the special section in these regulations entitled "Environmental Impact Statement".
5. An in-scale drawing of the proposed subdivision superimposed on an appropriate aerial photograph of the subject property.
6. Three copies of construction plans for the fire-fighting water source(s) required by Section 6.3. One of these copies shall be submitted directly to the Board of Health.
7. In subdivisions of eight lots or more, the applicant shall furnish the Planning Board with a copy of the plan for the purpose of publication in a local newspaper (See Chapter IX, Fees).

4.5-3 Environmental Impact Statement (EIS) Contents

For the purpose of protecting the health, safety, convenience and welfare of the existing and future inhabitants of West Tisbury, of maintaining the quality of ground and surface waters and public and private water supplies, of protecting the natural and historic character of the town, and of planning for the orderly expansion of public services required by development, the Planning Board may require that the applicant submit an Environmental Impact Statement (EIS) for a proposed subdivision.

In determining whether an EIS is required, the Planning Board shall consider the size of the subdivision, the natural features or other characteristics of the locus of development, or additional factors which may warrant the development of reliable information about the impact of the proposed subdivision. In any case, if the application is for a subdivision of land which is in more than one town, an EIS shall be required.

The scope of the EIS shall be determined by the Planning Board. The board shall specify in writing whether such impact statement should address all or only some of the subjects set forth in these regulations, and whether because of particular circumstances, there are other impacts that the EIS should address.

Before beginning preparation of the EIS, the applicant shall submit for Planning Board review the credentials of those who will do the analysis, and preparation shall begin only after the Planning Board agrees that the credentials are satisfactory. All costs of the EIS shall be borne by the applicant.

It is an applicant's responsibility to prepare and document the EIS in sufficient detail to permit an adequate evaluation by the Planning Board; however, additional data may be requested in writing by the Planning Board.

In reviewing the EIS, the Planning Board may find it necessary to hire additional consultants to evaluate or substantiate claims made in the EIS. The Planning Board may impose reasonable fees on the applicant to cover the costs of such outside review (see Section 9.3, Project Review Fee).

A. EIS Site Map

Three copies of a site map as described in this section shall be submitted by the applicant as an integral part of the EIS. The map shall not be larger than 60 by 40"; it shall show at a suitable scale the entire subdivision and the surrounding area within 300 feet of its boundaries. The applicant is encouraged to use tissue acetate or mylar overlays in conjunction with a proper base map.

1. Base Map

The base map shall show: the subdivision boundaries, proposed lots, ways, easements, building sites, open spaces and the existing landmarks, structures, roads, vistas and overlooks, historic and special places, and Ancient and Scenic Ways both within the 300 feet of tract boundaries. A summary tabulation of the total area dedicated for streets, drainage, and utilities and the total area reserved for recreation, parks or other open land shall be included.

2. Overlays

Overlays using color or black and white patterns shall include the following:

- a. Wetlands: all ponds, swamps, marshes, bogs, streams and all areas of the site subject to the Massachusetts Wetlands Protection Act (Ch. 131, Sec. 40).
- b. topography at two foot contour intervals, with graphic analysis of existing and projected drainage patterns.
- c. groundwater contours at five foot intervals, including depth below grade and relative to sea level, direction and rate of flow.
- d. soil types and related percolation data.
- e. vegetative cover including identification of general cover type (wooded, cropland, brush, etc.), location of all major tree groupings and trees of six inch caliper or greater and of any plant species listed by the state or federal government as deserving of preservation.
- f. important wildlife habitats, including identification of habitats of any State or federally listed species.

B. EIS Site Analysis

The EIS site analysis report shall be submitted typed on 8 1/2 by 11 inch paper with a cover sheet indicating the name of the subdivision, the owner of the land, the applicant, the engineer,

surveyor, land planner and or other authors of the report and the date of submission. It must be written in a factual style which can be interpreted by lay as well as professional people. No less than twelve copies of said report shall be submitted for the use of the Planning Board and for distribution to other Town boards. The site analysis report shall contain appropriate supporting data, including the date any field data was collected, with accompanying documentation and source references. Where there are federal, state or local performance standards for judging an impact, the analysis shall compare projected impacts with those standards. The analysis shall set forth the impact of the subdivision on the environment and the Town's economy, municipal services, fiscal balance and character according to the guidelines which follow in this section, and shall propose measures to reduce any adverse impacts on the environment or Town. In compiling such an EIS, the Applicant shall consult the various Town departments having knowledge and authority in the subjects being analyzed, such as the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Board of Assessors, Finance Committee, Road Inspector, Fire and Police Departments, etc.

1. Environmental Impacts

a. Impact of the proposed development on surface waters, groundwater, and drainage.

i. An analysis of the effects of nutrient loading from the subdivision shall be required if:

- a portion or all of the proposed development lies within the watershed or zone of contribution of a freshwater or coastal pond or embayment.
- a portion or all of the development lies within the watershed or zone of contribution of a public water supply well(s) either existing or proposed.

When required, the analysis of nutrient loading shall include determination of the nutrient loading of the proposed subdivision and shall compare it to the carrying capacity of the receiving waters, setting forth the probable impact or effect of the proposed subdivision over a period of time assuming the subdivision is completed and all lots are built upon. Analysis of the effects of nutrient loading shall be done using available loading estimates from county, state or federal performance standards and the standards listed below in this section and shall include, at a minimum:

- an assessment of the existing condition of the water body or water supply, including physical characteristics and water chemistry;
- the expected change in the condition of the water body or water supply as a result of the proposed development; and
- a comparison, on a per acre basis, of the total projected nutrient loading from the proposed development with:
 - the existing loading from all acreage in the recharge area of the water supply or water body
 - the potential loading from all acreage in the recharge area at maximum build-out under existing zoning

- the loading rate which would be expected to produce critical eutrophic concentrations in a water body or in the case of a water supply, the loading rate which would produce nitrate-nitrogen levels in excess of five parts per million

- the proposal of measures to reduce nutrient loading if the comparison of the total projected nutrient loading, as required above, indicates that the per-acre loading rate from the proposed development will equal or exceed the critical loading rate when combined with existing and potential development within the water's recharge area.

In determining total nutrient loading of a development and critical eutrophic concentration, the following standards shall be used, unless the applicant demonstrates to the Planning Board that given the nature of the proposed project and/or receiving waters, other standards are appropriate:

- loading per person: 5 lbs. Nitrogen per person per year; .25 lbs. Phosphorous per person per year for sewage disposal systems within 300 feet of the shoreline;
- loading from lawn fertilizers: 3 lbs. Nitrogen per 1,000 square feet of lawn per year;
- loading from road run-off: .19 lbs. Nitrogen per curb mile per day; .15 lbs. Phosphorous per curb mile per day;
- Critical eutrophic concentrations: fresh water concentration, total Phosphorous = .02 mg/liter; salt water concentration, total Nitrogen = .75 mg/liter.

ii. The Applicant shall describe any proposed alterations of wetlands or flood plain areas and shall demonstrate that appropriate measures have been taken to assure full compliance with the Massachusetts Wetlands Protection Act. The Applicant shall clearly identify all drainage easements on the plan, as well as all portions of individual lots subject to the Wetlands Protection Act in order that prospective purchasers of subdivision lots will be adequately informed of the status of their property.

iii. The Applicant shall further outline erosion and sediment control measures to be employed in order to minimize loss of topsoil and siltation of surface waters during construction. The Applicant shall analyze storm drainage of the subdivision at build-out at the level of a 10 and 50 year storm. The applicant shall demonstrate that at the level of a 10 year storm all run-off from the system of roads within the completed subdivision shall be contained on site and will not damage adjoining property, overload, silt-up or contaminate in any way any marsh, swamp, bog, pond, stream or other body of water, or endanger any public or potable water supply. The analysis of drainage from a 50 year storm will assess whether construction of the subdivision will increase the amount of run-off from the tract to surrounding property and propose measures to reduce any adverse impacts.

iv. The Applicant shall furnish data on projected water consumption for a one, five, and ten year period, shall provide a survey of wells adjacent to the subdivision, giving water levels and rates of flow of each well. The Applicant shall indicate whether increased run-off resulting from the development will result in lessened recharge of the groundwater

table, and shall describe measures to maximize groundwater recharge. The Applicant shall demonstrate that the density of dwellings in the subdivision will not in the future lower the water table significantly at the expense of or to the detriment to existing homes.

v. The Applicant shall show the proposed location of all septic systems and provide information on the type of systems to be installed, noting any special design considerations necessitated by the site.

b. Ecological Impacts: The Applicant shall describe proposed clearing of land within and leading to the subdivision, including provisions for the disposal of stumps, brush and earth. An

2. Fiscal Impact

a. Schools: The Applicant shall provide information regarding:

- the estimated number of year-round families (based on present statistics within the Town) to establish residence within the subdivision over a one, five and ten year period;

- projected increase in school enrollment for nursery, elementary, junior high and high school levels as a result of the subdivision over a one, five and ten year period, based on rates of enrollment at the time of the submission of the plan.

- projected increase in educational costs as a result of the subdivision over a one, five and ten year period based on the rates and operating costs in effect at the time of the submission of the plan.

b. Town Services

- Information shall be provided regarding the type, capacity and location of facilities for storage of fuels or hazardous substances; water sources available for Fire Department and a map showing their locations within and adjacent to the subdivision; provisions by the developer to assure adequate water supply for the Fire Department within the proposed site based on projected housing and fire hazards.

- The Applicant shall project increased operating costs of the Emergency Medical Services, Police and Fire Departments to provide adequate protection to residents (seasonal and year round) within the subdivision over a one, five and ten year period based on rates in effect at the time of submission of the plans.

- The Applicant shall estimate additional new service requirements in time and/or cost that the proposed subdivision may place upon the Town for solid waste disposal and septage treatment.

- The Applicant shall provide estimated costs of normal maintenance of all roads and ways within the subdivision based on rates in effect at the time of submission of the plan over a one, five and ten year period. Information demonstrating provisions for adequate

road maintenance within the subdivision shall be required as well as information regarding legal ownership of and current traffic flow rates and patterns on the roads leading to the subdivision. The Applicant shall demonstrate that roads and ways to and within the subdivision are adequate to provide emergency medical, fire and police protection as well as safe travel for the volume of traffic projected. A report shall be submitted estimating the traffic flow from the subdivision at peak periods in relation to existing traffic on the streets in and adjacent to the subdivision.

c. Revenues: The taxable value of the lots and buildings to be constructed within the proposed subdivision shall be estimated along with resulting revenue to the Town projected over a one, five, and ten year period based on rates in effect at the time of submission of the plan.

3. Character of Town

a. A project description shall be provided including the total number of units, total number of bedrooms, nature of units (single family, two family) and expected market price.

b. The Applicant shall demonstrate that the proposed development conforms with the Town's Master Plan in relation to goals and objectives regarding growth rates, expansion of Town services and infrastructure, and scale and types of development.

c. The Applicant shall demonstrate provisions for the protection and preservation of natural features, vistas and overlooks, historic structures or sites, and Ancient or Scenic Ways.

d. The Applicant shall demonstrate that the scale and siting of buildings will be protective of the scenic character of the surrounding area, and will minimize potential conflicts with existing uses on the land adjacent to the proposed subdivision.

e. The Applicant shall indicate provisions for recreation areas or facilities for the future residents of the subdivision within or adjacent to the subdivision, and provisions to continue or preserve access to public and private recreational areas or facilities.

4.5-4 Definitive Plan and EIS Review

A. Review by Board of Health as to Suitability of the Land

The Board of Health shall within forty-five days after filing of the Definitive Plan report to the Planning Board in writing approval or disapproval of said plan. If the Board of Health disapproves such plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health and include such specific findings and the reasons therefore in such report and where possible, shall make recommendations for the adjustment thereof. Every lot (so located that it cannot be served by a connection to the municipal sewer system) shall be provided with a septic tank and drain-field satisfactory to the Board of Health.

B. Public Hearing

Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Planning Board at the expense of the applicant at least fourteen days prior thereto by advertisement in an official publication, or in a newspaper of general circulation in the Town of West Tisbury. A copy of said notice shall be mailed to the applicant and all abutters. (See 2.c. above.)

4.5-5 Definitive Plan Approval

The Board, after the hearing, shall vote to approve, modify and approve, or disapprove the Definitive Plan. If, in the judgment of the Planning Board, the subdivision plan does not give adequate protection to the health, safety, convenience and general welfare of the present and future inhabitants of the Town or of prospective purchasers of land within the subdivision, the Planning Board shall make specific findings of the detriment posed by the subdivision, and may require that the plan be modified to correct these inadequacies, or if there are no feasible remedies, the Planning Board may deny approval of the subdivision plan.

Certified copies of the decision shall be filed with the Town Clerk and sent by delivery or registered mail to the Applicant. If an extension of the statutory deadline for a decision is requested in writing by the Applicant, an extension may be granted by the Board. The Board shall forthwith file a notice of approval of the extension with the Town Clerk. If the Planning Board votes to modify or disapprove a plan, it shall state in the vote its reasons for the action. In the case of approval of the plan by the Board, after expiration of twenty (20) days without notice of appeal to the Superior Court, or if appeal has been taken, after the entry of a final decree of the Court sustaining the approval of such plan, and if the performance guarantee has been signed and submitted, the Board shall place on an original drawing of the Definitive Plan, a written endorsement of its approval. Once the plan has been approved and endorsed, the Applicant shall furnish the Board with three prints thereof and all copies of documents which are required to be recorded in the Registry of Deeds showing verification of such recordings.

Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

4.5-6 Performance Guarantee

A. Methods

Before endorsement of its approval of a plan, the Board shall require that the construction of ways and other improvements as specified in Chapter V of these Rules and Regulations, be secured by one, or in part by one and in part by the other, of the following methods, as set forth in Section 81 U of the Subdivision Control Law, which method may be selected and from time to time varied by the applicant.

1. By a proper bond or deposit of money or negotiable securities, sufficient in the opinion of the Board to secure performance of the construction of ways and the required improvements for lots in the subdivision shown on the plan and the Board shall require that the time be specified within which such construction and installation shall be completed.

2. By a covenant executed and duly recorded by the owner of record, running with the land, whereby such ways and improvements shall be provided to serve any lot before such lot may be built upon, or conveyed other than as set forth in said Section 81 U of the Subdivision Control Law.

3. Following the recording of a first mortgage, covering the land shown on the plan, or a portion thereof, given as security for advances to be made to the Applicant by the lender, the Board may, at its option, release lots from the operation of the covenant, upon delivery of an agreement with the Board executed by the Applicant and the lender which shall provide for the retention of funds to secure the specified improvements.

B. Release or Reduction of Guarantee

Performance bonds, deposits or covenants may be released in whole, or from time to time in part, when the required work has been satisfactorily completed in accordance with the rules and regulations of the Board. The Board shall then release the interest of the Town in such bond and return the bond or the deposit to the person who furnished same, or release the covenant by appropriate instrument, duly acknowledged, which shall be recorded. Duplicate copies of requests for all releases (whether partial or final) shall be submitted by registered letter or delivery to the Town Clerk, and the Town Clerk shall forthwith deliver a copy of such request to the Planning Board. The request shall enumerate each lot or parcel to be released, and shall be accompanied by an engineer or surveyor's written statement that the work has been done in accordance with these Rules and Regulations.

Requests for partial release shall specify the work that remains to be completed and shall include estimates by the appropriate contractors of the cost of completing all the remaining work. The Planning Board shall have forty-five days in which to act on the request for release, as provided in Section 81 U of the Subdivision Control Law. There shall be a fee charged for processing each release request as provided in Chapter IX Fees.

CHAPTER V. SUBDIVISION DESIGN STANDARDS

SECTION 5.1 STREETS

5.1-1 Location and Alignment

All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision and the Town.

The proposed streets shall conform, in so far as practicable, to the Master or Study Plan as adopted in whole or in part by the Planning Board.

Provision satisfactory to the Planning Board shall be made for the proper projection of streets or adjoining property which is not yet subdivided.

Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Planning Board, such strips shall be in the public interest.

Street jogs with centerline offsets of less than one hundred and twenty-five feet should be avoided.

Minimum centerline radii may be required for principal streets to ensure reasonable site distances.

Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than forty-five degrees.

Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than fifteen feet.

5.1-2 Width

The minimum width of street rights-of-way shall be forty feet. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel.

5.1-3 Grades

Maximum grades shall not be more than 6.0% for principal streets and not more than 12.0% for secondary streets. Regardless of these grade limits, a street shall be approved only if it is designed to provide reasonable horizontal sight distances.

5.1-4 Dead-End Streets

Dead-end streets shall not be longer than five hundred feet unless, in the opinion of the Planning Board, a greater length is necessitated by topography or other local conditions.

Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least one hundred feet and a property line diameter of at least one hundred and fifteen feet.

SECTION 5.2 UTILITIES

5.2-1 General Requirements

Underground utility service shall be provided to the boundary of each potential building lot in the subdivision for electricity, telephone, gas, water and sewer by underground pipes, wires, conduits, etc. and underground from the nearest reasonable source to the subdivision. The utilities shall be located within the right of way layout but outside the constructed way, in an area offset two to six feet from either side of the constructed way. Where utility service must be installed under the traveled way, for example where the service crosses the road, cables shall be installed in conduits.

5.2-2 Electrical Service Requirements

A minimum of three 4/0 aluminum USE cables (or equivalent in copper) shall be used for the secondary feeders to each buildable lot. For those subdivisions for which the power company

Cable - provisions for cable - for phone

Refer - tel & cable systems would have to be installed to the entity's specifications.

submits a written guarantee that the lot owners in the subdivision will receive an adequate, dependable source of electric energy, the above standards will be waived, if the guarantee provides for the upgrading of the secondary feeder to the handholes without charge to the customer, should the service prove inadequate.

5.2-3 Electrical Distribution Plan

Prior to the installation of electrical utility service, two copies of a plan of the electrical distribution system for the subdivision shall be submitted to the Wiring Inspector. Within 14 days of the date of submission, the Wiring Inspector shall act on the plan, in writing, either approving the plan as submitted, approving it with changes, or disapproving the plan with an explanation of deficiencies. Installation of electrical service shall not begin until the applicant has received written approval of the plan from the Wiring Inspector, except that installation may begin and the plan shall be deemed approved should the Wiring Inspector fail to act on the plan within fourteen days of submission.)

5.2-4 Residential Service Requirements

The following service minimums are required for single family houses and subordinate dwellings.

115 AMP: Main house, based on 2,000 square foot floor area exclusive of unoccupied cellar, unfinished attic, and open porches.

89 AMP: Subordinate dwelling, based on 800 square foot floor area with the same stipulations. *Accessory Apartment*

Sub dwelling of 1000

204 AMP: Both houses are assumed total electric; i.e. heat, cooking, laundry and hot water.

MAIN HOUSE	
General lighting	6,000 VA
Small appliance	3,000 VA
Laundry	1,500 VA
Range	12,000 VA
Water heater	5,000 VA
Dishwasher	1,200 VA
Dryer	5,000 VA
Total	33.7 KVA

Accessory Apt.

-SUBORDINATE DWELLING	
General lighting	2,400 VA
Small appliance	3,000 VA
Laundry	1,500 VA
Range	12,000 VA
Water heater	5,000 VA
Dishwasher	1,200 VA
Dryer	5,000 VA
Total	30.1 KVA

1st 10 KVA @ 100% 10 KVA
 Remainder @ 40% 9.48 KVA

1st 10 KVA @ 100% 10 KVA
 Remainder @ 40% 8.1 KVA

Same heating
 10 watts per square foot @ 40% 8.00 KVA
 Total..... 27.48 KVA

Same heating
 10 watts per square foot @ 40% 3.2 KVA
 Total..... 21.3 KVA

$27.48 - 240 V = 115.5 \text{ AMP}$

89. AMP

5.2-5 Easements

Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve feet wide.

SECTION 5.3 OPEN SPACES

Before approval of a plan, the Planning Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the respective uses of such land. The Planning Board may by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three years.

SECTION 5.4 PROTECTION OF NATURAL FEATURES

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic spots, vistas, roadsides, forests, lakes and ponds, and existing vegetation, and similar community assets which, if preserved, will add attractiveness and value to the subdivision. Existing contours shall be preserved insofar as practical to do so, with the streets designed to minimize the necessity for large cut or fill, and with lots laid out to allow driveways to building sites which also do not require large cut or fill. No change shall be made in the contour of the land that adversely affects land abutting the proposed subdivision.

SECTION 5.5 RUN-OFF

Any on site run-off shall be contained within the subdivision boundaries.

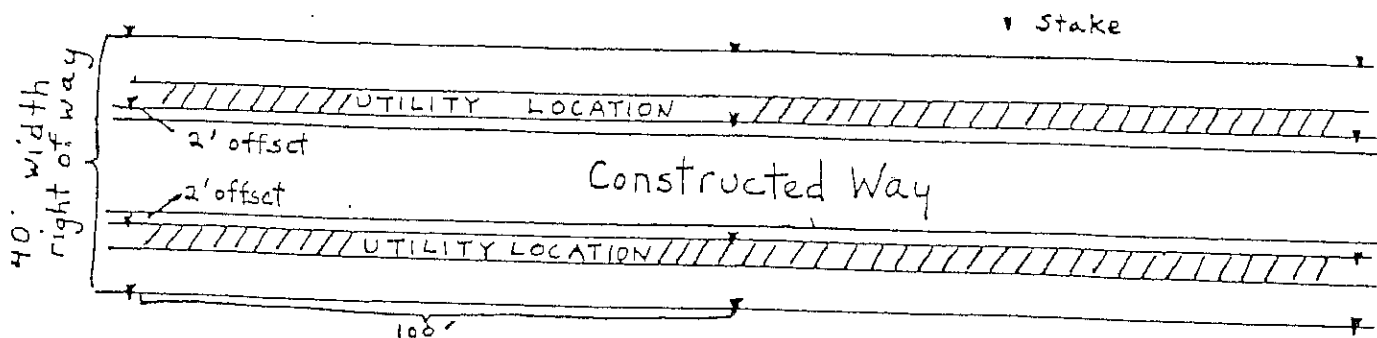
CHAPTER VI. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

SECTION 6.1 STREETS AND ROADWAYS

Each road or portion thereof shall be constructed and, if necessary brought up to finished grade in accordance with the requirements of this section.

6.1-1 Staking of Road Rights of Way

Prior to any construction, the limits of road rights of way within the subdivision shall be staked at 100 foot intervals, except on curves where staking shall be at a minimum interval of 50 feet. In addition, stakes shall be located in a similar manner within the rights of way at a two foot exterior offset from both sides of the proposed constructed ways. (See illustration below.) All stakes shall be maintained throughout road construction and installation of utilities and shall only be removed after the finished roads have been approved by the Road Inspector.



6.1-2 Clearing and Grubbing

Traveled portions of the roads in all classifications shall be cleared of trees, stumps, roots, boulders and like material. All brush and trees shall be cleared within four feet of both sides of the traveled portions of the roads. The remainder of the right-of-way shall remain undisturbed except where excavation of utilities, ditching for drainage and trimming of trees and underbrush for visual clearance is necessary. In any case, care must be taken to preserve the trees and vegetation continuously throughout the construction. In no case may stone walls be disturbed in any right-of-way until a plan for realignment, if necessary, has been approved by the Planning Board.

Before sale of any lot in the subdivision, the subdivider shall remove and properly dispose of any debris caused by street construction, installation of utilities or otherwise.

6.1-3 Excavating and Grading

All topsoil, loam and other yielding material shall be removed until a firm foundation is reached, regardless of whether finished grade is above existing grade.

6.1-4 Removal of Loam

Only such areas as roadways, driveways, building sites and areas requiring filling or building up may be stripped.

6.1-5 Shoulder Grading, Loaming and Seeding

No slopes resulting from grading shall exceed one foot vertical to three feet horizontal in fill, or one foot vertical to two feet horizontal in cut. Slope easements or retaining walls shall be employed where slopes cannot be contained within road sidelines. Land between the outside of the layout and the road proper or driveway entrances shall be so graded as to prevent surface water on the road from draining onto private land except at designated ponding areas. All disturbed shoulder areas shall be cleared of stumps, clumps, roots and rocks, be smoothed and final graded with 4" depth of loam and be seeded with a mixture approved by the Road Inspector. Shoulder work shall not be considered complete, until sufficient germination and growth has occurred to ensure stabilization of the grading.

6.1-6 Foundation Base

All prepared areas shall be provided with a foundation consisting of a good hardening material satisfactory to the Planning Board, clean and free of organic matter and containing no stones over three inches in diameter. The thickness of the foundation shall be so as to conform with the specifications indicated in the cross sections shown in the appended drawings. The material shall be spread true to line grade and to conform with the road profile and then compacted. Any depression that occurs, either during or after compacting, must be filled with additional hardener and compacted until the surface is true and even.

6.1-7 Width

The entrance to a subdivision road shall be paved eighteen feet wide for a length of fifty feet. The remainder of the roadway shall have a width to be determined by the number of lots served as follows:

- one to ten lotsten foot roadway
- over ten lotseighteen foot roadway

6.1-8 Turn Outs

Turn outs at intervals may be required on these roads. They shall receive the same subgrade and grading as the traveled way and shall be eight feet minimum in width and thirty-five feet minimum in length.

6.1-9 Aprons

Access aprons from subdivision roads to individual lot driveways shall be required and constructed as shown on the plan, the width and length to be determined by the Planning Board and Road Inspector.

6.1-10 Stop Signs

A stop sign shall be installed at the intersection of a subdivision road and any public road.

6.1-11 Surface Water Run-Off

All surface water run-off from roads shall be controlled in accordance with the requirements of this section.

A. Crowning and Sloping

All roads shall be tilted or crowned to shed water. In no case are they to be completely level. If drainage is available on both sides of the road, it shall be crowned in the center to a slope of 3/8" vertical to one foot horizontal for paved roads and 5/8" - 7/8" vertical to one foot horizontal for gravel roads. If drainage is available on only one side of the road, it shall be tilted to that side to a slope of 3/8" vertical to one foot horizontal slope for both paved and gravel roads. On curves, the road shall be tilted inward; should this create a drainage sump, a culvert or dry well must be installed to carry off the water.

B. Drainage and Culverts

Storm drainage, culverts and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage of all low points along roads, to control

erosion and to intercept storm water run-off along roads at intervals reasonably related to the extent and grade of the area drained. Where a subdivision is traversed by a water course, drainageway, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water course, drainage way, channel or stream and to provide for construction or other necessary purpose. No drainage of water from a subdivision road onto a Town road, public way, or private way shall be allowed, and peak stream flows at the boundaries of the development shall be no higher following development than prior to development. To the maximum extent feasible, storm water run-off shall be recharged by percolation through naturally vegetated areas. Drainage designs that rely on leaching basins shall only be approved where there is no reasonable alternative, and no drainage structure should be installed within 100 feet of any natural water body or wetlands as defined by MGL, Ch. 131, Sec. 40. All drainage facilities, including culverts, retention basins, catch basins and leaching basins shall be designed to accommodate a rainfall rate of two inches in two hours.

C. Berms

Where conditions are such that the water cannot be drained continuously from the roads, the Planning Board may require berms at necessary intervals to shunt the water off to drainage pools, ditches or dry wells. These berms shall be formed by adding excess foundation material on top of the road and shaping and blending a mound smoothly into the road. The requirements for berms shall be determined by the Road Inspector.

6.1-12 Road Specifications and Construction

All specifications and materials used in the construction of roads shall be in accordance with the requirements of this section.

A. Gravel Road Requirements

Roads with a longitudinal grade of 0-10% may be constructed only on approved road base and/or gravel according to the following specifications: after the roadway has been carefully graded and all banks and curves established level with the existing grade, two inches of crushed stone (either pea stone or three quarter inch stone) shall be distributed evenly over the entire surface, preferably with a spreader, then at least a one inch application of stone dust, applied over the crushed stone surface, all of which shall be compacted, mixing the stone dust with the crushed stone for binding purposes.

B. Paved Road Requirements

Roads with longitudinal grades from 6-10% shall have the road base paved with a two course type I-1 bituminous pavement, applied with a two inch compacted base and a one inch compacted finish course or a comparable material and application subject to the approval of the road inspector.

The road base shall be paved as above when the road serves ten or more building lots. If land reached by an unpaved pre-existing access road is subject to subdivision or re-subdivision, the developer shall be required to pave the entire road as above when the total number of building lots served by the road reaches ten.

C. Road Inspection

Road work is to be inspected by the Road Inspector at each of the following stages:

1. Before work commences, the developer and/or the contractor shall meet on-site with the road Inspector for a pre-construction conference to inspect staking.
2. After stumping and topsoil removal and creation of a firm foundation for road construction.
3. After coarse grading is completed.
4. At the start of finish grading and the laying of the first paving course.
5. After road paving is completed.

No work on road construction shall proceed to a subsequent stage until the earlier stage has been approved by the Road Inspector. Requests for inspections shall be made to the Planning Board office at least forty-eight hours in advance of the needed inspection.

6.1-12 Road Maintenance

Unless the developer offers to dedicate the roads and common areas of the subdivision to the Town, and the Town accepts, the developer shall either (a) retain ownership of such roads and make provisions satisfactory to the Town for perpetual maintenance thereof; (b) agree to convey such roads and common lands to an association of lot owners under terms satisfactory to the Planning Board or (c) combination of (a) and (b). The Definitive Plan shall carry a notation as to which alternative will be followed and the terms thereof.

SECTION 6.2 UTILITIES

6.2-1 Percolation Tests for Sanitary Disposal Systems

Percolation tests are required in order to determine the suitability of land for on-site sanitary disposal facilities. The number and location of such percolation tests shall be determined by the Board of Health after examination of site. The results of such tests shall be submitted to the Board of Health and the Planning Board prior to approval or endorsement of a subdivision plan.

6.2-2 Well Tests for Potable Water Supply

A. General

In all areas of West Tisbury a well must be installed and tested before the Board of Health will issue a permit for the installation of an on-site sanitary disposal facility. All wells must pump at least five gallons per minutes, and except as noted below, the pump test shall be for a duration of at least four hours.

B. In area of higher elevation:

For all lots of greater than 100 feet elevation above mean high water in the morainal area know as Pine Hill lying between Old Courthouse Road and Old County Road; the morainal area between North Road and Middle Road; and the area located between the one hundred foot contour on the east and the mean high water mark on the west in lands lying south of Black Brook, being west of Lambert's Cove Road and State Road and north of North Road, a deep well must be provided, which is to be located at least 200 feet from any other well, and which, when pumped over a period of eight hours, has a minimum flow of five gallons of potable water per

minute. No such lot shall be sold until documentation certifying the required flow has been submitted to and approved by the Board of Health and then filed with the Planning Board. An inspection fee as provided for in Chapter IX Fees shall be levied for each lot subject to this inspection and shall be paid to the Planning Board on submission of the Definitive Plan.

6.2-3 Electric and Telephone Lines

Underground electric and telephone lines shall be provided for each lot as specified in Section 5.2-1.

SECTION 6.3 WATER SOURCE FOR FIRE FIGHTING

A water source (or sources) for firefighting or an equivalent provision which conforms to the specifications of the West Tisbury Fire Department shall be provided within a subdivision. The Fire Chief's written approval of the water source facility construction plans must be received by the Planning Board prior to its approval of a subdivision plan.

SECTION 6.4 SIGNS

A permanent sign naming the street shall be installed at the entrance of all subdivision roads. The sign shall be free-standing, be located so as to be visible from vehicles approaching the intersection, be placed at a height of approximately eight feet above grade, and have a sign area no larger than one square foot.

SECTION 6.5 SIDEWALKS

Sidewalks of not less than four feet in width shall be constructed on both sides of the street in conformity with specifications of the proper local agency when, in the opinion of the Planning Board, such sidewalks are necessary.

SECTION 6.6 STREET TREES

6.6-1 Requirements

The subdivider may be required to plant trees on the planting strip on any street in the proposed subdivision wherever there are no existing woodlands. When required, not less than one tree per shall be provided, nor shall the distance between each tree be more than fifty feet.

6.6-2 Specifications

Before the trees are planted, a plan showing their proposed location and species shall be submitted to the Planning Board for study and recommendation and the Board may prevent the planting of certain species that are subject to pests or disease or which might eventually tend to become nuisances because of their roots' growing in sewers, water mains and other similar utilities.

SECTION 6.7 MONUMENTS

Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points where, in the opinion of the Planning Board, permanent monuments are necessary. Such monuments shall conform to the standard specifications of the proper local agency and shall be set according to such specifications. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed. A certified letter stating that all required monuments are installed by the surveyor must be received by the Planning Board prior to the sale of the lots or the issuance of building permits.

CHAPTER VII. DWELLINGS WITHIN SUBDIVISIONS

Not more than one building designed or available for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision without the consent of the Planning Board.

CHAPTER VIII. SPECIAL PERMITS

SECTION 8.1 APPLICATION PROCESS

8.1-1 General

The Planning Board acts as the Special Permit Granting Authority under the following provisions of the Zoning By-law: Section 3.1, Large-Scale Residential Development; Section 4.4-3B, Multi-Family Housing; Section 6.2-4C, Special Ways Zone; Section 6.2-5A, Roads District additional access; Section 6.6-5, Uses within the Greenlands Water Resource Protection District; and MGL Chapter 40A, Section 16, Repetitive Petitions.

Applications for action by the Planning Board shall be made on the official form. The form is available from the Planning Board assistant upon request. All information called for by the form shall be furnished by the applicant in the manner therein prescribed. In order to be processed, the application must be complete with all required information and filed with the Town Clerk.

8.1-2 Submittal Requirements

Each application shall be accompanied by the following:

- Four copies of a plan showing the location of property involved, with Assessor's Map and Lot number, Registry Book and Page number and date of recording of subject's deed.
- Reason for Special Permit, and the section of the Zoning By-law under which the permit is sought.
- The plan shall be drawn to scale and the scale to be specified on the plan.
- The plan shall have a North (N) point, names of streets, locus and Zoning District.
- Entrances, exits, driveways, existing buildings, existing or proposed wells, septic systems, Special Ways or stone walls that pertain to the granting of the permit shall be shown.
- A check for the fee.

- 150 -
wells + septic

8.1-3 Public Hearing

Notice of a public hearing shall be advertised two times in a newspaper of general circulation in West Tisbury, the first publication at least 14 days before the scheduled hearing, and the second publication one week later. A copy of the hearing shall be sent to the applicant, all abutters, and to the Planning Boards of all abutting towns, as well as posted in the West Tisbury Town Hall. The public hearing must be held within sixty-five (65) days after the application is filed.

8.1-4 Approval Process

Action shall require the following vote to issue the Special Permit: approval by at least four (4) members of the five (5) member Planning Board. The Planning Board's Associate Member may act on the Special Permit application in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

The Planning Board shall take final action on the Special Permit application within 90 days of the Public Hearing, or any time extended by the board. If final action is not taken within that time, the Special Permit shall be deemed granted. Before granting a Special Permit, the Planning Board must make specific findings including that the use is in harmony with the general purpose and intent of the zoning bylaw, and that the use complies with the provisions set forth in the Zoning Bylaw.

The Planning Board shall file a copy of the decision with the Town Clerk within fourteen (14) days of the date of final action, and mail a certified copy of the decision to the applicant, to the owner if other than the applicant, and to persons who requested a notice at the Public Hearing. Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, M.G.L. and shall be filed within twenty (20) days after the date the decision is filed in the office of the Town Clerk. After expiration of appeals, the Town Clerk shall issue a certificate stating that the Special Permit is deemed granted.

The Special Permit decision is not in effect until the applicant has filed a certified copy of the decision with the Registry of Deeds.

If the application is denied, the applicant may re-petition and be granted the Special Permit within two years only if:

- the Planning Board consents to re-petition;
- the Planning Board holds a "proceeding" to consider consent and notifies all parties in interest of the time and place;
- all but one of the members of the Planning Board consent, and;
- the Planning Board, acting as the Special Permit granting authority, makes a finding of specific and material changes in the conditions upon which the original unfavorable action was based. An application for a Special Permit may be withdrawn without prejudice by the applicant prior to the publication of the Public Hearing notice. Once the notice has been published, however, a withdrawal without prejudice may be permitted only with the approval of the Planning Board.

8.1-5 Expedited Approval for I.S. solar

CHAPTER IX. FEE STRUCTURES AND REGULATIONS

SECTION 9.1 INTRODUCTION

Pursuant to MGL c40A. s.9 and c.41, S 81Q, the Planning Board had adopted the following regulations governing fees and a fee schedule for review conducted by the Planning Board and its consultants on the various types of applications which come before it. These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more adequately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by MGL c44, s53G; to establish a review procedure in the selection of consultants and to promote more informed decision-making by the Planning Board.

SECTION 9.2 ADMINISTRATIVE FEES

9.2-1 Fees, General

The Planning Board and its office shall assess an Administrative Fee to offset the expense of review. Administrative fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

Division of Land - Form A	\$100.00 per lot
Subdivision Preliminary Plan - Form B.....	\$100.00 per plan
Definitive Plan - Form C	
One to nine lots	\$150.00 per lot
Ten or more lots	\$200.00 per lot
Inspection fees for wells in areas of higher elevations	\$.30.00 per inspection
Request for full or partial release from bond or covenant	\$50.00 per release
Certified Mail notices over 20	\$4.00 per notice
Five required road inspections	\$100.00 per insp.
Each repeat inspection.....	\$100.00 per insp.
Inspection fees for wiring.....	\$ 30.00 per hour
Certificate of Performance	\$40.00 per cert.

Additional publication fee for subdivisions of eight lots or more	\$150.00 per subd.
Special Permit	\$150.00 per permit

9.2-2 Fees for Revised Applications

Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee, the following rule shall apply:

If the number of proposed lots or units increases, the applicant shall pay a fee equivalent to the difference between the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the office of the Planning Board, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.

9.2-3 Fee Waivers

The Planning Board may waive or reduce any Administrative Fee, if in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

9.2-4 Refund

Once the review process has been commenced, the Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant.

SECTION 9.3 PROJECT REVIEW FEES

9.3-1 Applicability

In addition to an Administrative Fee, the Planning Board may impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permits or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, bylaws, and regulations. Such assistance may include, but shall not be limited to analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

9.3-2 Submittal

Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G (53G Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

9.3-3 Schedule of Project Review Fees

The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Rules and Regulations Governing the Subdivision of Land, and any listings which may have been

compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted to the Planning Board for action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

A. Original Special Permit, Division of Land, Preliminary Subdivision or Subdivision:

<u>Project Size</u>	<u>Fees Up To</u>
→ 1 Lot/Unit	\$ 2,000
2-15 Lots/Units	\$ 4,000
16-20 Lots/Units	\$ 6,000
21-25 Lots/Units	\$10,000
More than 25 Lots/Units	\$20,000
Ten or fewer Parking Spaces	\$ 2,500
Eleven or more Parking Spaces	\$ 5,000

B. Modification of a Special Permit, Division of Land, Preliminary Subdivision or Subdivision:

<u>Project Size</u>	<u>Fees Up To</u>
2-15 Lots/Units	\$ 2,000
16-20 Lots/Units	\$ 3,000
21-25 Lots/Units	\$ 4,250
More than 25 Lots/Units	\$ 5,000
Ten or fewer Parking Spaces	\$ 1,000
Eleven or more Parking Spaces	\$ 1,500

9.3-4 Replenishment

→ The Planning Board reserves the right to require an additional Project Review Fee to cover the cost of the remaining project review.

9.3-5 Inspection Phase

After the granting of a Special Permit, Division of Land, Preliminary Subdivision or Subdivision, the Planning Board may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

9.3-6 Handling of Project Review Fees

The Project Review Fee is to be deposited into a special account as set forth in MGL c. 44, s. 53G.

A. Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.

B. Project Review Fees shall be turned over to the Town Treasurer by the Planning Board for deposit into a 53G Account.

C. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced. At the conclusion of the project, a final report of the account shall be made available to the applicant or its successors in interest.

9.3-7 Appeals

The Board's choice of a consultant may be appealed to the Board of Selectmen on the grounds of conflict of interest or lack of qualification.

CHAPTER X ADMINISTRATION

SECTION 10.1 VARIATION

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

SECTION 10.2 REFERENCE

For matters not covered by these rules and regulations, reference is made to Section 81-K to 81-GG inclusive of Chapter 41, of the Massachusetts General Laws. Also to Chapter 30, Section 61 and 62.

Adopted April 1973

Revised May 1975

Revised April 1976

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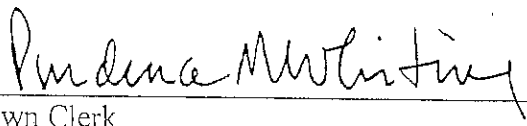
Revised December 1994

Revised April 1995

Revised March 1998

Revised June 2004

A true copy, attest:


Town Clerk