



TOWN OF TISBURY
SPECIAL TOWN MEETING WARRANT
TUESDAY, APRIL 10, 2018 AT 7:00 PM

Commonwealth of Massachusetts

County of Dukes, ss.

To either of the Constables of the Town of Tisbury,

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify the inhabitants of the Town of Tisbury who are qualified to vote in elections and Town affairs to meet at the Tisbury School Gymnasium-Auditorium, 40 West William Street, Vineyard Haven, in said Town of Tisbury, on the tenth day of April in the year Two Thousand Eighteen at seven o'clock in the evening, then and there to act on the following articles in this warrant:

ARTICLE 1 TO OBTAIN OFFICIAL BONDS

To see if the Town will vote to instruct the Selectmen to obtain of the Town Officers from whom bonds are required in FY2019 only such bonds as are secured by regular bond and surety firms and, when the bond of any Town Officer is accepted by the Selectmen, that the Town shall bear the expense of the amount paid by him or her for said bond, or take any action relative thereto.

Submitted: Board of Selectmen

ARTICLE 2 TO ELECT A FISH COMMITTEE

To see if the Town will vote to elect Janet Messineo, James T. Tilton and John M. Wilbur as a Fish Committee, in FY2019, pursuant to the provisions of Chapter 40 of the Special Acts of 1847 as it relates to the regulation of herring fishing at Chappaquonsett Pond and Creek and access thereto, or take any action relative thereto.

Submitted: Board of Selectmen

ARTICLE 3 TO AUTHORIZE THE TREASURER-COLLECTOR TO ENTER INTO A COMPENSATING BALANCE AGREEMENT

To see if the Town will vote to authorize the Treasurer-Collector to enter into a compensating balance agreement or agreements for Fiscal Years 2019 and 2020 pursuant to Chapter 44, Section 53F, of the Massachusetts General Laws, or take any action relative thereto.

Submitted: Treasurer/Collector

ARTICLE 4 TO DISPOSE OF SURPLUS EQUIPMENT

To see if the Town will vote to dispose of the surplus equipment listed below, or take any action relative thereto.

- The 2005 Ford Expedition Response Vehicle, for trade-in purposes
- 1998 Ford E350 Ambulance, for trade-in purposes
- Harbor Patrol Boat Engine
- 1998 Ingersoll Rand Compressor
- 1998 New Holland Ford Mower
- Two 10' Root Highway Plows
- 1987 Ford F800 Cab and Chassis
- Septic System Infiltrators

Submitted: Treasurer/Collector

ARTICLE 5 TO ESTABLISH ASSISTANT LOCAL BUILDING INSPECTOR POSITION

To see if the Town will vote to establish the position of Assistant Local Building Inspector, Grade M4, for the Building Department, or take any action relative thereto.

Submitted: Board of Selectmen

ARTICLE 6 TO ESTABLISH WASTEWATER LEAD OPERATOR POSITION

To see if the Town will vote to establish the position of Wastewater Lead Operator, Grade 6, Public Works Department, or take any action relative thereto.

Submitted: Public Works Director, Board of Selectmen

ARTICLE 7 TO FILE SPECIAL LEGISLATION TO PROTECT GROUNDWATER AND SURFACE WATER RESOURCES

To see if the Town will vote to authorize the Board of Selectmen to file a petition with regional, state and federal agencies and the State Legislature for special legislation and/or other action to preserve the public health, welfare and safety relative to the protection of groundwater sources of drinking water and watersheds from pesticide contamination, by requiring all governmental agencies and private parties to comply with local health regulations promulgated by the Tisbury Board of Health which prescribe, limit or prohibit the application of herbicides and related chemical products to control or eliminate vegetation on lands in the Town of Tisbury that are designated as sole source aquifers for the Town of Tisbury water supply or for individual and community private residential well water supply or within the Tashmoo Lake Watershed and the Lagoon Pond Watershed, or take any action relative thereto.

Submitted: Board of Selectmen

ARTICLE 8 TO ESTABLISH A STATE ROAD SEWER DISTRICT

To see if the Town will vote to create a new sewer district, encompassing the business district of State Road (known as the B2 District) as shown on a plan entitled "Lake Tashmoo Watershed Proposed State Road Sewer District Tisbury, Massachusetts" dated February 2018 by Environmental Partners Group, for future development of a wastewater collection system, in order to enable growth and development while also reducing nitrogen contributions in the Lake Tashmoo Watershed, said district to be under the operation and management of the Department of Public Works, under the jurisdiction of the Board of Selectmen, in accordance with the applicable provisions of the Sewer By-law, or take any action relative thereto.

Submitted: Board of Selectmen

ARTICLE 9 TO AMEND EXISTING DEFINITIONS, ZONING BYLAW

To see if the Town will vote to amend Section 02.00 of the Tisbury Zoning Bylaw by revising the existing definitions for "Accessory Apartment" and "Medical Marijuana Cultivation Area," and adopting a definition for "Recreational Marijuana Establishments," by inserting the text in bold print and deleting the language shown in strikethrough, as follows:

- 1) An accessory apartment is ~~an incidental use~~, a separate ~~housekeeping~~ **dwelling** unit complete with its own sleeping, cooking, and sanitary facilities, which is contained within, **or** added to a single family dwelling structure.
- 2) **Recreational Marijuana Establishments (RME)**
Shall mean a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, all as defined in the Massachusetts General Laws. Chapter 94G, Section 1, but not to include a Registered Marijuana Dispensary (RMD).
- 3) ~~Medical~~ Marijuana Cultivation Area
The land area and space within a building (excluding the areas used for processing or dispensing) where plants are cultivated.

Submitted: Planning Board

ARTICLE 10 TO AMEND MULTIPLE DWELLING UNITS AND STRUCTURES, ZONING BYLAW

To see if the Town will vote to delete Section 04.03.12 of the Tisbury Zoning Bylaw entitled "Multiple Dwelling Units and Structures," which reads as follows:

- 04.03. Uses requiring a Permit from the Board of Appeals
 - .12 Multiple Dwelling Units and Structures:
Two (2) or three (3) dwelling units (including apartments) and/or two (2) dwelling structures one (1) lot, whether to be accomplished by new construction, modification or use; and, which results in increased occupancy capacity or wastewater generating capacity. The Zoning Board of Appeals may grant Special Permits for applications coming within this description, provided:
 - the requirements of Schedule A (section 13.00), including setbacks between buildings, are met;
 - the lot area is not less than the minimum lot area requirement in Schedule A (section 13.00) for the district multiplied by the number of dwelling units, except as set forth in section 08.00 ('Cluster Developments');

- there are no more than two (2) septic systems per lot, nor more than two dwelling units connected to one (1) septic system;
- each dwelling unit shall be provided with a minimum of one (1) vehicular parking space, so arranged as to permit turning vehicles around and precluding the necessity of backing onto a public way;
- each dwelling unit shall have a discrete yard space designated for its use;
- no construction or business materials shall be kept on the premises;
- no commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises;
- no inoperative or unregistered vehicle shall be kept on the premises;
- at least one (1) dwelling structure shall front on a public way; each dwelling structure which fronts on a public way shall have the frontage required by Schedule A (section 13.00);
- for dwelling structures which do not front on a public way there shall be an additional access frontage of forty (40) feet in the R50 District and thirty (30) feet in the R10, R20, and R25 Districts;
- said access widths shall extend and be arranged so as to serve all dwelling structures and parking areas on the premises; and, shall be designed to accommodate emergency vehicles (e.g. fire, police, ambulance); and,
- where a building permit would be required to construct, enlarge or modify a dwelling unit or dwelling structure and/or where it is proposed to increase wastewater generating capacity, all of the definition requirements of Section 02.00 ('Multi-family Dwelling') shall be incorporated.

In deliberating upon applications made under this Section 04.03.12, the Zoning Board of Appeals considerations shall include, but are not limited to:

- health, safety and traffic impacts;
- overcrowding and congestion;
- preservation of open spaces and scenic values;
- protection of natural resources;
- compatibility of proposed uses and structure(s) with the neighborhood;
- evidence of a documented and existent (as opposed to speculative) housing needs by the residents of Tisbury; and
- conformity with public policy (e.g. addressing a documented and existent requirement for low or moderate income housing for the residents of Tisbury).

The Zoning Board of Appeals shall not grant a Special Permit under this Section 04.03.12, unless it has found good and sufficient evidence that the plan is appropriate to the intent and purposes of the Zoning Bylaws.

Single dwelling unit guest houses which are solely for the use of the property owner's immediate family and short term non-paying guests are excluded from the requirements of this Section 04.03.12, but require authorization under Section 04.03.08.

Submitted: Planning Board

ARTICLE 11 AMEND MULTIPLE FAMILY DWELLINGS UNITS, ZONING BYLAW

To see if the Town will vote to amend section 04.04.02 of the Tisbury Zoning Bylaw, entitled "Multiple Dwelling Units and Structures," by inserting the text shown below in bold print and deleting the language shown in strikethrough, as follows:

04.04 Uses Requiring a Permit from the Planning Board

.02 Multiple-**Family** Dwellings ~~Units~~ and Structures:
For all developments with at least two (2) dwelling units (including apartments) and/or two (2) dwelling structures ~~Mere than three(3)-dwelling units (including apartments) and/or more than two (2)-dwelling structures~~ on one (1) lot, inclusive of new construction, ~~and~~ **modification of use; and**, which results in increased occupancy capacity ~~(e.g. increased, additional or enlarged bedrooms) or additional(including enlarged capacity) wastewater generating devices.~~

The Planning Board may grant Special Permits for applications coming within this description, provided:

~~excepting low/moderate income housing and/or housing for the elderly, there are no more than eight (8) dwelling units and/or~~

- ~~four (4) dwelling structures (including guest houses)~~
- ~~all of the conditional provisions of Section 04.03.12 are met, except that the two (2) septic systems per lot and two (2) dwellings per septic system restriction shall not apply if the Board of Health approves an on-site 'package treatment facility' for all on-site generated wastewater;~~
 - a) ~~multiple-family dwellings units~~ and/or structures shall not be sited on lots any portion of which lies below the fifteen (15) foot elevation contour line running along and inland of Lake Tashmoo, Vineyard Sound, Vineyard Haven Harbor and Lagoon Pond.
 - b) ~~the lot area and setback requirements of Schedule A (Section 13.00) are met for the district, except as set forth in section 08.00 ('Cluster Developments');~~
 - c) ~~The applicant complies with the Tisbury Board of Health's Wastewater Regulations for subsurface sewage disposal.~~
 - d) ~~each dwelling unit shall be provided with a separate parking and/or garaging, arrangements and so arranged as to permit turning vehicles around and precluding the necessity of backing onto a public way;~~
 - e) ~~each dwelling unit shall have a discrete yard space designated for its use;~~
 - f) ~~no construction or business materials shall be kept on the premises;~~
 - g) ~~no commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises;~~
 - h) ~~no inoperative or unregistered vehicle shall be kept on the premises;~~
 - i) ~~at least one (1) dwelling structure shall front on a public way; each dwelling structure which fronts on a public way shall have the frontage required by Schedule A (Section 13.00);~~
 - j) ~~for dwelling structures which do not front on a public way there shall be an additional access frontage of forty (40) feet in the R50 District and thirty (30) feet in the R10, R20, and R25 Districts; said~~
~~access widths shall extend and be arranged so as to serve all dwelling structures and parking areas on the premises; and shall be designed to accommodate emergency vehicles (e.g. fire, police, ambulance); and,~~
 - k) ~~where a building permit would be required to construct, enlarge or modify a dwelling unit or dwelling structure and/or where it is proposed to increase wastewater generating capacity, all of the definition requirements of Section 02.00 ('Multi-family Dwelling')~~ shall be incorporated.
 - l) ~~dwellings containing two (2) or more dwelling units in the same structure will provide each unit with at least two (2) entrances to the outside, and separate utilities and services~~

EXCEPTION

To promote year round affordable and community housing, the Planning Board through the special permit granting process may grant the following exceptions:

For affordable/community housing and/or housing for the elderly, there are no more than eight (8) dwelling units and/or four (4) dwelling structures (including guest houses).

Where a minimum of twenty-five percent of the dwelling units are permanently deed restricted for affordable housing and an additional twenty-five percent of the dwelling units are permanently deed restricted for community housing, the Planning Board may waive the requirements in Section 04.04.02 (b),(d), (e), (j) and (l), if the Planning Board finds that the development does not disproportionately impact the visual character of the adjacent neighborhood.

Affordable and community dwelling units shall be subject to the requirements and restrictions overseen by the Dukes County Regional Housing Authority for certification and annual recertification.

In deliberating upon applications made under this Section 04.04.02, the Planning Board considerations shall include, but are not limited to: ~~all of the considerations set forth in Section 04.03.12.~~

- health, safety and traffic impacts;
- overcrowding and congestion;
- preservation of open spaces and scenic values;
- protection of natural resources;

- compatibility of proposed uses and structure(s) with the neighborhood;

.02 Multiple-Family Dwellings Units and Structures

Further, the Planning Board shall give particular consideration to consistency with master planning policies and impacts upon municipal problems and projects.

The Planning Board shall not grant a Special Permit under this Section 04.04.02 unless it has found good and sufficient evidence that the plan is appropriate to the intent and purposes of the Zoning Bylaws, does not conflict with master planning policies, will not significantly aggravate an identified municipal problem(s) or impede municipal projects.

~~Note: The provisions of Section 07.11 are applicable this Section 04.04.02.~~

Submitted: Planning Board

ARTICLE 12 TO AMEND ACCESSORY APARTMENTS, ZONING BYLAW

To see if the Town will vote to amend section 04.03.13 of the Tisbury Zoning Bylaw, entitled Accessory Apartment by inserting the text shown below in bold print and deleting the language shown in strikethrough, as follows:

04.03. Uses requiring a Permit from the Board of Appeals
.13 Accessory Apartment

~~Definition:~~

~~An accessory apartment is an incidental use, a separate housekeeping unit complete with its own sleeping, cooking, and sanitary facilities, which is contained within or added to a single family dwelling structure.~~

Purpose and Intent:

The purposes of this Bylaw are to:

1. Provide **affordable, community and year-round** rental housing ~~for family members and seniors~~ within the architectural context of the Town's single family home character.
1. Provide an opportunity for family members **and seniors** who choose to live in a close proximity, but separate, ~~from other family members~~, to remain within that family environment.
2. Provide **caregiver housing** for the health and security concerns of elder or disabled homeowners who wish to remain in their homes.
3. Provide homeowners with additional income to help them retain ownership of their homes.
4. Protect residential stability, property values, and the single family character of the neighborhoods.
5. Make it possible for the Town to supervise and monitor such additions for code compliance and safety.

Conditions:

~~Notwithstanding the provisions of Section 04.03.12 of this Bylaw,~~ **Only** one accessory dwelling unit is permitted in ~~an otherwise~~ a single family residential dwelling pursuant to a special permit issued under the provisions of Section 04.03.13 and provided that:

(a) The lot on which the accessory ~~unit~~ **apartment** is situated is not in either the R3A or the Coastal District.

(b) the requirements of Schedule A (Section 13.00) are met;

~~(b)~~**(c)** No more than one (1) accessory ~~unit~~ **apartment** shall exist on a lot. If a guesthouse or residential ~~unit~~ **accessory apartment** exists on the lot, no additional accessory ~~dwelling unit~~ **apartment** shall be allowed.

~~(e)~~**(d)** The accessory ~~dwelling unit~~ **apartment** shall measure no more than forty (40) percent of the existing habitable area not to exceed six-hundred (600) square feet in all residential districts. At no time shall either dwelling unit be made a condominium and held in separate ownership. The appearance

of the building shall remain that of a single-family residence in keeping with the character of the neighborhood.

~~(d)~~(e) The owner of the lot, who must be a resident of the Town, shall occupy either the accessory ~~unit~~ **apartment** or principal residence.

~~(e)~~(f) The accessory ~~unit~~ **apartment** and the principal residence shall each have two **separate** means of egress to grade and meet all other applicable regulatory requirements.

(g) The owner is subject to the Department of Public Health's State Sanitary Code II, 105 CMR 410.000, entitled, Minimum Standards of Fitness for Human Habitation.

(h) The owner must comply with the Tisbury Board of Health's Wastewater Regulations for subsurface sewage disposal systems.

~~(f)~~(i) The accessory **apartment** shall be **provided with** a minimum of one parking space ~~to accommodate the accessory apartment, not less than ten feet by twenty feet.~~ **so arranged as to permit turning vehicles around, and precluding the necessity of backing onto a public way.** The space(s) shall **also be screened** ~~located so as to~~ minimize the visual impact from the street or abutting properties. ~~by a minimum landscaped area setback of ten feet.~~

(j) No construction or business materials shall be kept on the premises.

(k) No commercial vehicles, other than one (1) pickup truck or van per dwelling unit, shall be kept on the premises.

(l) No inoperative or unregistered vehicle shall be kept on the premises.

EXCEPTION:

For conversion of an existing structure to provide for an accessory apartment without adding additional square footage, the apartment may measure up to fifty percent of the existing habitable area, if the accessory apartment is utilized for:

Affordable or caregiver housing for the duration of the accessory apartment. If the use as affordable or caregiver housing ends, then the accessory apartment no longer qualifies for the exception and must meet the requirements of Section 04.03.13.

Apartments used for affordable housing shall be subject to the affordable housing restrictions as overseen by the Dukes County Regional Housing Authority. Any such lease shall clearly state that year round occupancy of the accessory apartment is a condition of the lease.

If used for caregiving, such apartment shall be subject to the requirement of an annual caregiver certification letter from a physician to the Inspector of Buildings and Zoning Board of Appeals.

The owner of the accessory apartment shall provide the Inspector of Buildings and Zoning Board of Appeals with the name(s) of the caregiver for the owner or owner's family.

The Zoning Board of Appeals must be notified in writing of any change of use (i.e. from affordable housing to care giving or the reverse).

All other requirements for the provision of an accessory apartment shall be met

In deliberating upon applications made under this Section 04.03.13, the Zoning Board of Appeals considerations shall include, but are not limited to:
- traffic impacts;
- overcrowding and congestion;
- compatibility of proposed uses and structure(s) within the neighborhood.

PENALTY

An owner of a single family residence and associated accessory apartment violating this Bylaw shall be liable for a fine of ~~not more than \$300.00~~ **\$50.00 per day**. Each day a violation continues constitutes a separate offense. ~~An owner who voluntarily brings his or her premises into compliance within five (5) years from the adoption of this Bylaw shall not be subject to this penalty.~~

Submitted: Planning Board

ARTICLE 13 TO AMEND MARIJUANA DISPENSORY OR ESTABLISHMENTS, ZONING BYLAW

To see if the Town will vote to amend section 05.23.02 of the Tisbury Zoning Bylaw, entitled Registered Marijuana Dispensary, by inserting the text shown below in bold print and deleting the language shown in strikethrough, as follows:

05.20 Business District - 2:

05.23 Uses Requiring Special Permit from the Planning Board

.02 Registered Marijuana Dispensaries (RMD, hereinafter) and Recreational Marijuana Establishments (RME hereinafter) Applicability.

This section provides that:

1. No RMD **or RME** shall be established except in compliance with the provisions of this Section.
2. Nothing in this Section shall be construed to supersede federal and state laws governing the possession, sale and distribution of narcotic drugs.
3. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected.

.03 General Requirements and Conditions for all Registered Marijuana Dispensaries and Recreational Marijuana Establishments

1. No application for a special permit is complete without the applicant demonstrating that they have acquired all licenses and permits as required by 105 CMR 725.000 **for RMDs or MGL Chapter 94G, and the regulations of the Massachusetts Cannabis Control Commission for RMEs.** ~~and demonstrating certification from the state.~~
2. All RMDs **and RMEs** shall be contained within a building or structure.
3. ~~No RMD and or RME shall have a gross floor area in excess of 1500 sq. ft.~~
4. The maximum ~~land area~~ allowance for the cultivation of medical **or recreational** marijuana shall not exceed **2500** ~~5000~~ sq. ft.
5. The hours of operation of a RMD **or RME** shall be set by the Planning Board, but in no event shall a RMD **or RME** be open and/or operating between the hours of 8:00 PM and 8:00 AM.
6. Any RMD, **RME** or similar facility shall not be located within 100 feet of an existing school, daycare facility, playground, public park, public athletic field or similar public recreation facility, or any place where children commonly congregate, and a half-way house.
7. No smoking or burning **or consumption** of marijuana or marijuana related products shall be permitted on the premises of **an RMD or RME.**
8. Signage for a RMD shall be limited to one (1) sign, fixed flat against the building up to one (1) square foot of sign for each lineal foot of building frontage, not to exceed ten (10) square feet in area. Said sign shall include the following language "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries". The required text shall be a minimum of two inches in height. **A RME shall comply with the sign regulations in Section 07.06.00**
09. All print and electronic advertisements for Medical marijuana facilities, including but not limited to flyers, general advertising signs,

and newspaper and magazine advertisements, shall include the following language “Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries”. Oral advertisements for Registered Marijuana Dispensaries, including but not limited to radio and television advertisements shall include the same language.

Recreational Marijuana Establishments must clearly advertise that “only those 21 and older may enter or purchase product”.

10. RMDs **and** RMEs shall provide the Special Permit Granting Authority with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.
11. **No person who is not at least 18 years of age** shall be permitted on the premises of a RMD during hours of operation unless that person is a qualified patient or caregiver with a valid registration card. **No person under 21 may enter, or purchase product at, a RME.**
12. The potential discharge of THC and nitrogen into wastewater shall be addressed with the Board of Health for a remediation plan, and submitted to the Planning Board, if required.

.04 Special Permit Conditions & Restrictions for all Registered Marijuana Dispensaries **and Recreational Marijuana Establishments**

1. A RMD **and** RME may only be allowed by special permit from the Special Permit Granting Authority (the Planning Board) in accordance with MGL c.40A s.9, subject to the following statements, regulations, requirements, conditions and limitations
02. The applicant shall provide a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report. The applicant shall in addition provide a copy of its Articles of Incorporation or equivalent documents, a current Certificate of legal Existence from the Secretary of the Commonwealth, and the most recent annual report. If the applicant is a public agency, evidence of the agency’s authority to engage in the development of the RMD **or** RME as proposed by the application must be provided.
03. The applicant shall provide copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD **or** RME.
04. The applicant shall provide evidence of the applicant’s right to use the site of the RMD **or** RME for the RMD **or** RME, such as a deed, lease, purchase and sale agreement or other legally-binding document
05. Special Permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The Special Permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.
06. Special Permits shall be valid for a period of one (1) year from the date of the decision. Not less than three (3) months prior to the expiration of the special permit, it shall be incumbent upon the applicant to apply to the Tisbury Planning Board for a renewal of the special permit. Said permit shall be valid for a five (5) year term, and renewable for successive five (5) year periods provided that a written request for renewal is made to the Tisbury Planning Board not less than three (3) months prior to the expiration of the then-existing five (5) year period.

Submitted: Planning Board

ARTICLE 14 AMEND SCHEDULE A, ZONING BYLAW

To see if the Town will vote to amend Section 13.01 of the Tisbury Zoning Bylaw, entitled “Schedule A – Within Residential Districts,” by inserting the text shown below in bold print and deleting the language shown in strikethrough, as follows:

13.01.02 Multi-unit:

Minimum frontage, depth and setbacks, and maximum heights, are the same as in Section 13.01. (Minimum lot size is the number of dwelling units multiplied by the minimum lot size set forth in Section 13.01; see Section ~~04.03.12~~ **04.04.02**

Submitted: Planning Board

ARTICLE 15 TO ACCEPT THE PROVISIONS OF MASSACHUSETTS GENERAL LAW, CHAPTER 39, SECTION 23D

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 39, Section 23D, which states as follows:

(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

Submitted: Planning Board

ARTICLE 16 TO AMEND THE DISCHARGE OF FIREARMS BYLAW

To see if the Town will vote to amend Section 13 of the Town's Bylaws by deleting the existing language and replacing it with new language, as set forth below, or take any action relative thereto.

~~No person shall for practice or sport, discharge any gun, pistol or other fire arms, in or upon any street or highway, wharf or public place, or in any yard, garden field or enclosure in said Town.~~

DISCHARGE OF FIREARMS, RELEASE OF ARROWS

No person shall fire or discharge any firearm or explosives of any kind or release any arrow within the limits of any highway, park or other public property except with the written permission of the Board of Selectmen; or on any private property, except with the written consent of the owner or legal occupant thereof, provided, however, that this bylaw shall not apply to the lawful defense of life or property nor to any law enforcement officer acting in the discharge of his duties. Any person violating any provision of this bylaw shall be punished by a fine of not more than \$50.00 for each offense.

Submitted: Board of Selectmen

ARTICLE 17 TO ESTABLISH MARTHA'S VINEYARD REGIONAL HIGH SCHOOL STABILIZATION FUND

To see if the Town will vote to approve the establishment by the Martha's Vineyard Regional High School District of a Stabilization Fund to be known as the "MVRHS Capital Stabilization Fund" to provide a fund for expenditure for capital improvements for the Martha's Vineyard Regional High School and for such other lawful purposes as provided by Massachusetts General Laws, c. 71, s. 16G1/2 as it may be amended from time to time, or take any action relative thereto.

Submitted: Board of Selectmen/Public Works Department

ARTICLE 18 TO ESTABLISH A STABILIZATION FUND FOR THE WICK SYSTEM

To see if the Town will vote, pursuant to section 5B of Chapter 40 of the General Laws, to establish a Wick System stabilization fund to be used for costs related expended by the Public Works Director for three components necessary to bringing the so-called WICK System online as part of upgrades to the wastewater treatment plant, to include the force main connection, providing disinfection facilities at the WICKS, and the effluent delivery system inside the WICKS, or take any action relative thereto.

Submitted: Board of Selectmen/Public Works Department

The Finance and Advisory Committee Recommends Passage of this Article. (6-0-0)

ARTICLE 19 TO BAN RELEASE OF LIGHTER – THAN AIR BALLOONS IN TISBURY

To see if the Town will vote to ban the release of lighter – than air balloons in Tisbury.

1. No person, nonprofit organization, association, firm or corporation, shall knowingly release, organize the release of or intentionally cause to be released into the atmosphere any helium or other lighter – than air gas balloons in the Town of Tisbury. Any violation of this bylaw shall result in the fine of a Hundred Dollars (\$100).
2. The provisions of section one shall not apply to balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or testing

procedure or by a person on behalf of the governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.

Submitted: Citizen's Petition

ARTICLE 20 TO ADD RENTAL PROPERTY REGISTRATION BYLAW

To see if the Town will vote to amend the Town's General Bylaw by adding a new bylaw providing for the regulation of all rental housing units in the Town of Tisbury, including but not limited to year round, seasonal and short term rentals, as set forth below, or take any action relative thereto.

SECTION 1: Purpose

The purpose of the bylaw is to protect the public health, safety and welfare of both the general public and the occupants of all rental housing units within the Town of Tisbury, including but not limited to, year round, seasonal and short term rentals.

SECTION 2: Rental Certificate Required

No property owner shall rent or lease, or offer to rent or lease, or cause to rent or lease any building or any portion of a building to be used for human habitation without first obtaining a rental certificate from the Town of Tisbury.

SECTION 3: Application for Rental Certificate

Application for such certificate shall contain the name and address of the property owner, the address of the property being registered, the number of units in the registered property, the number of rooms in each unit, and the size (in square feet) of each unit.

The application shall include the name and phone number of one or more responsible individuals who can be reached and who shall be available at all times to respond to emergencies.

The application shall include a certification by the owner or its authorized agent, under pains and penalties of perjury, that they have inspected each unit and that it complies with all applicable laws, including but not limited to the State Sanitary Code, 105 CMR 410.000, et seq., the State Building Code, 780 CMR, the State Comprehensive Fire Safety Code 527 CMR 1.00 and the Town of Tisbury Zoning Bylaws.

The application shall be accompanied by the applicable fee. Fees shall be waived for affordable and community housing units.

SECTION 4: Rental Certificate – Conditions, Term and Fees

Rental Certificates shall be issued subject to such conditions as the Town deems necessary for the protection of public health, safety and welfare.

The Rental Certificates shall specify the maximum number of occupants that may be permitted in each unit. Maximum occupancy will be determined by the Town based on information provided in the application and available Town records. In no case shall occupancy exceed two persons for each legally recognized bedroom over 100 square feet. In accordance with the State Sanitary Code bedrooms less than 100 square feet shall be recognized for single occupancy only.

Prior to issuing a Rental Certificate the Town may require an inspection of the rental property by the Board of Health, Building Department and/or Fire Chief in order to determine maximum occupancy and to confirm that the rental unit complies with all applicable laws.

The Rental Certificates shall specify the name and contact information for persons responsible for responding to emergencies and requests for assistance from tenants and/or Town of Tisbury staff.

The Rental Certificate shall be conspicuously posted on the premises in a location accessible to all occupants and visitors.

All advertisements of property for rent shall clearly post the Rental Certificate number assigned by the Town of Tisbury.

Rental Certificates will be effective for three years from the date of issue, unless sooner revoked in accordance with this bylaw.

The Rental Certificate fee shall be established annually by the Board of Selectmen.

SECTION 5: Owner's Duty of Compliance

It shall be the responsibility of the property owner to ensure that compliance with the conditions set forth in the Rental Certificate and all applicable laws relative to the habitation of the premises is maintained at all times.

It shall be the responsibility of the property owner to ensure that the maximum occupancy of the premises is not exceeded at any time.

It shall be the responsibility of the property owner to ensure that the individual(s) identified as being available for responding to emergencies and requests for assistance are in fact available at all times and that a prompt and appropriate response is provided.

SECTION 6: Suspension, Modification or Revocation of Rental Certificate

The Town may suspend or revoke any Rental Certificate, after a hearing for violation of any provision of this bylaw, the State Sanitary Code, the State Building Code, the State Comprehensive Fire Safety Code or any other applicable General Law, regulation or by-law intended to protect public health, safety and/or the environment.

The Town may, in lieu of suspension or revocation, modify any Rental Certificate to impose additional conditions, including but not limited to a requirement for periodic inspections and/or a limitation on the maximum number of occupants allowed.

If any Rental Certificate is suspended or revoked, the owner of the premises shall be responsible for finding alternative and comparable housing for any and all tenants until such time as the tenancy ends or the rental certificate is reinstated.

This bylaw is intended to further the objectives of and to act in concert with any existing federal, state or local laws concerning the maintenance of property and the habitation of dwellings. Nothing in this bylaw is intended to limit or restrict the authority of the Town or any board, commission or officer of the Town to act in accordance with federal, state and local laws within their jurisdiction, including but not limited to the emergency condemnation procedures set forth in the State Sanitary Code and the State Building Code.

SECTION 7: Fines and Penalties

Any Code Enforcement Officer for the Town of Tisbury may enforce this bylaw. Any person who violates any provision of this bylaw shall be subject to a penalty of \$300. Each day or portion thereof shall constitute a separate offense.

This bylaw may be enforced by means of the non-criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition bylaw. As an alternative to enforcement through non-criminal disposition, this bylaw may be enforced by indictment or on criminal complaint brought in the district court.

SECTION 8: Severability

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected and shall continue in full force and effect.

SECTION 9: Operation and Effect

This bylaw shall become effective July 1, 2018.

Submitted: Board of Health

And you are hereby directed to serve this Warrant by posting attested copies thereof at five public places in said Town, fourteen days at least before the time of holding said Meeting.

Hereof fail not, and make due return of this warrant, with your doings therein, to the Town Clerk at the time and place of meeting as aforesaid.

Given under our hands this Twentieth day of March in the year Two Thousand and Eighteen.

Tisbury Board of Selectmen

Tristan R. Israel

Melinda F. Loberg

Larry J. Gomez

Posted at: Tisbury Town Hall
Tisbury New Town Hall Annex
Tisbury Senior Center
Vineyard Haven Public Library

March 20, 2018

Tisbury Police Department

Tisbury Constable