

## Notes and bullet point on goals and objectives for Coastal Resilience Districts

The purpose is to have a funding model for property that benefits from an engineering structure.

### Suggested bullet point recommendations from CRAC

- Whole island should be the Coastal Resilience District
- Create sub-districts as needed around the island and approved by Select Board
- Create the coastal resilience districts as needed and charge to the beneficiaries in that area accordingly.
- Largescale Town infrastructure (sewer plant, dump, arterial roads) can be subject to tax payer only funding (likely capital projects)
- Localized projects get charged to the people who receive benefits from the project; and charged accordingly
- Look at the possibility of both primary beneficiaries and secondary beneficiaries
- As sea levels rise, more land will be impacted. This will necessitate changing the project and betterment areas over time. Allow for redefining the betterments occasionally.
- Need to create an airtight system for betterment collection
- Need to create an airtight system for betterment collection, like tax collection.
- Operation and maintenance costs must also be included.
- Have a "sunset" clause in districts. Coastal resilience structure for X number of years or until there is a trigger where is no longer functions. Then it is removed. This could afford property owners time to plan retreat in some areas.
- Primary Plan and a backup plan to allow for resilience planning. Betterment analysis based on both plans. Secondary plans can be anything from alternative systems should the first fail, to removal and retreat planning.
- Yearly evaluation for impacts, feasibility to continue, and project function.
- Allow for cooperation with other programs such as One Big Beach easement and others.
- Allow for additional benefits such as Hold Harmless agreements, insuring public access, donations of land to the Town.
- Educate property owners and purchasers what the risks are and put them on notice that they may be subject to group projects and potential betterment costs over time
- \*\*\* a bullet point based on Doug's comments about, whole island approach, the state legislature and HPR\*\*\*
- \*\*\* Intervention ownership question from Jen. Who owns the intervention?\*\*\*

**Commented [VM1]:** Track 1. whole island

**Commented [VM2]:** Track 2. create the districts as needed. The project driven method. Defined geographic areas.

**Commented [VM3]:** In line with Track 1.

**Commented [VM4]:** In line with track 2.

**Commented [VM5]:** As I understand it, betterments are applied the same way as property tax. Already a tight system where the town has the ability by any means necessary to collect. Liens, % added for failure to pay.

**Commented [VM6]:** From Vince. Not from a committee member.

**Commented [VM7]:** From Vince & Jeff. Not from a committee member. Gives regulatory boards some oversight.

**Commented [VM8]:** Copy and paste from Sarah.

**Commented [VM9]:** Doug has an interesting point that is worth exploring and I don't know who to phrase a bullet point on it. Its reads like Track 1 whole island approach with more nuance.

**Commented [VM10]:** Jens question. See if the committee want to draft a point on this. May need legal advice.

## Committee Response

### COASTAL RESILIENCE DISTRICTS NOTES - Tim Braine

#### Benefits/risks of CDRs

-Districts might serve a few positive purposes:

- Make clearer to property owners and purchasers what the risks are and put them on notice that they may be subject to betterment costs over time
- Promote a sense of shared local community interest in the resilience issues, solutions, and bearing the costs
- Facilitate better communication among residents and between residents and town government regarding resilience issues

-A possible downside might be that by creating these district identities it will “Balkanize” the island and promote competition for funds and priority for the districts’ local resilience issues. If you create “teams” you can expect the teams to compete with each other.

Commented [VM11]: Means to divide

-It seems to me that creating districts on an as-needed basis over time instead of all at once would reduce this sense of dividing

#### Dividing up benefits and costs

-As we discussed at length in the August 8 meeting, there is a lot to work out about how betterments would work in a district and this will become a tricky issue. Would all of the residents in the district be assessed the same betterment cost? Would the “benefits” of a project have different value to different residents and stake holders? For example, Baxter road erosion mitigation would be seen as a benefit to different extents and for different reasons for different residents. As Matt pointed out, residents on the bluff side of Baxter have a bigger benefit than those across the street or further away from the risky area. Residents on Low Beach may see little benefit. The bluff walk is not only a historic asset of Sconset, but a well-used feature by Sconset residents and also attracts a lot of tourists to the village. Business owners like the Market and Claudettes benefit greatly from this. Many residents not near the bluff will see it as an important part of the history and character of Sconset. The TON has a financial interest because of its responsibility to provide services that might be taken away by erosion. Even Sconset Trust has a stake in this I would think.

Other CDRs will have their own very local versions of these disparate interests. Will it be possible assign different benefit values to different residents/stakeholders in the district? How would that work? Is it a formula of some kind? Or is it negotiated for each project in each district among the residents there?

#### Projects benefiting all island residents

-It seems to me that the “everyone in the district” pays in equally for every project may be a tough sell. I guess I would be for finding a way to set up a process for a district and the town to work out a sliding scale of benefit and financial responsibility among residents in the district to be negotiated for each project. But that is laborious...who manages that?

-It's very clear that there are resilience projects that will clearly benefit all island residents. Should those be part of an all-island district or handled as part of regular town planning? Joanna was concerned about getting the more urgent projects priority attention rather than just getting in the finance and planning cue. Is the CDR designation the way to do this? Or is it better to do it some other way? It seems to me an all-island CDR just creates confusion about the purpose of CDRs and that those projects need to be integrated into town planning in some common sense way.

**Matt Fee**

CRAC getting stuck a bit on Coastal Resiliency District nomenclature thinking about it like OHD or other set "district".

We are talking about a Coastal Resiliency "powers" for lack of a better term. (I'm sure there is one.) To fill in gap on items that current state law doesn't allow us to handle equitably. Not meant as an exhaustive list....

- betterments Apportioning costs fairly. Additional M+R costs yearly
- Tiering costs based on location and benefit
- What happens when someone owing betterments moves or abandons and stops paying
- road abandonments (Issues where town is required to provide but then pay for "takings".
- hold harmless
- insuring continued public access
- Donation of land
- OBB easements

So we need to identify what powers are needed, what is problematic now, and how best to address them. It will take a while. If this is perceived as taking "rights" away then a Home Rule will be opposed at state level.

Gotta work within existing parameters for betterments and other items and do the best we can, as CRD could be a 3-5 year process. Even longer.

Goal should be to figure out way to move forward best we can within existing state laws, and town meeting constraints for betterments, funding, etc so important near term action is not delayed.

Matt

#### Coastal Resiliency Districts - Gary Beller

The entire Island should probably be a CRD and there should be the ability to create sub-districts from time to time as needed. It is important that we have this flexibility going forward as none of us can predict future needs resulting from climate change, erosion, storms, and sea level rise.

Defining subdistricts is probably one of the most difficult undertakings that will have to be addressed. But when mother nature starts taking its toll on areas of the Island, perhaps the districts will be clearer

**Commented [VM12]:** First set of notes from Matt.

**Commented [VM13]:** Primary and secondary benefits. Kind of.

**Commented [VM14]:** Track 1. Whole island

to understand. I suspect that Districts will define themselves and may be aided by external factors such as Banks unwillingness to lend or insurers refusing to provide coverage in certain areas.

For infrastructure projects like our sewerage treatment plant, ferry terminal, waste disposal facility and other infrastructure necessities, costs should be assessed against the Island's residents and taxpayers equally. For subdistricts with particular issues (such as Sconset Bluff as one example) the costs should be assessed only against residents and taxpayers in those areas whose homes are immediately affected.

**Commented [VM15]:** That's how Capital projects work already.

The betterments should be largely paid for by those in the particular CRD with possibly a very modest contribution-10%-from the Town coffers.

A home rule petition filed with the State, will hopefully provide the necessary authorization for the implementation of CRD's to avoid the need for changing numerous local Town regulations.

For Island wide infrastructure projects, the Select Board or perhaps a sub-committee named by the Select Board of individuals with particular expertise in the areas being addressed, ought to oversee the projects. In CRD subdistricts, the group overseeing those projects should be members of the community who are receiving the betterment assessments. And if the majority of members of the community who are to be subject to the betterment assessment vote against such an assessment, the Town should have no further obligation to deal with remediation.

#### **Aug. 8, 2023 CRAC CRD homework – Peter Brace.**

##### **1. How are districts defined and mapped; define coastal area, risk area or who may not benefit.**

I think we need to be very specific on who benefits 24-7 in each district, who occasionally benefits and who does not at all. The island-wide district could be the catchall, general district.

**Commented [VM16]:** Primary and secondary benefits

**Commented [VM17R16]:** Same as Jeff & Vince idea.

##### **2. Do CRDs include sea level rise so that the districts can migrate as waters rise? Done by periodic review or set parameters?**

Definitely. Sea level rise must be included as the basis for the CRDs because they will shrink and be reconfigured as the water comes up. I think the review has to be a hybrid of periodic and parameters so that the changes can happen sooner than the water rising to reflect a given district's current and forecasted impacts, and estimate costs for funding adaptations.

##### **3. Is the whole island the district and specific benefit sub-districts are mapped on a need's basis (i.e., ferry dock, downtown, sewer plant, airport, roadways)?**

The whole island is a district in so far as we all use the whole island's facilities to varying degrees including its roads, transportation hubs, sewage treatment (depending on where we live on island),

water in the aquifer either through a well or the Town or Siasconset water mains, beaches, boat ramps, etcetera.

**Commented [VM18]:** Track 1

#### 4. Should the CRDs be based on future impacts to currently unaffected areas of the island?

The CRDs should be made adaptable to future impacts to the extent that we think can predict what these impacts might be. Betterments might then fluctuate depending on how we meet the needs of a given subdistrict

#### 5. Guidance on who pays what portion of betterments.

I don't think we'll have much luck telling some people they have to pay more within a given district than others. Since we're planning some sort of raising of Madaket Road including First and Second bridges, how are we going to divvy up betterments between those who live in the Fisher's Landing area and those who own property west of Second Bridge, or in the Smith's Point neighborhood, or on Sheep Pond Road? Madaket from the east side of First Bridge encompassing Fisher's Landing, Eel Point, Madaket proper, Smith's Point and Sheep Pond Road is as imperiled as Brant and lower downtown Nantucket are. I think the everyone within the subdistricts must pay the same, but I also think we really need to work on our message as to why they all pay the same. If this is the road we choose.

**Commented [VM19]:** Interesting. This is the difference between large scale projects that can be done by capital planning, and not be part of CRD's; and small, localized projects with defined benefit areas. This may be a committee discussion.

#### 6. Guidance on how Town regulatory boards should be involved and which by-laws and regulations need to be amended?

- Our Nantucket Wetlands Bylaw enforced by the Conservation Commission (ConCom), will need to be amended, as the 25-foot, 50-foot and 100-foot buffer zones will keep advancing inland. A mechanism for the bylaw to incrementally evolve as sea level continues rising, carrying the buffer distances with it, should be built in to the bylaw so that a major effort with voters isn't required every time a revision is needed.
- We should get the Planning Board and its staff to help define the districts with the guidance of the CRAC.
- With the help of the Historic District Commission (HDC), CRAC could create specific historic CRDs within whatever sub districts we map out around the island similar to the Old Historic Districts in Town and in 'Sconset in which vulnerable historic buildings and sites could be identified. Such historic CRDs might then qualify these areas for preservation-related resilience grants that might be out there that could be used for adaptation, protection or retreat depending on each area's level of vulnerability.

**Commented [VM20]:** Wetland bylaws currently being updated. No idea if this can be included. Seek advice from the ConCom rep.

**Commented [VM21]:** Districts usually first drafted by lawyers as far as I know. Then regulatory boards have their input.

### CRAC homework on Coastal Resiliency Overlay Districts - Sarah T. Bois

Benefits of CDRs:

- Educate property owners and purchasers what the risks are and put them on notice that they may be subject to group projects and potential betterment costs over time
- Promote a sense of shared local community interest in the resilience issues, solutions, and bearing the costs
- Facilitate better communication among residents and between residents and town government regarding resilience issues

**Commented [VM22]:** Similar to the first point. First point is very impactful so added to the synthesized list as is.

I think the CRDs should be discussed and used first as an educational tool. They should be discussed and implemented separately from discussions of betterments.

1. I believe the CRD should be defined by a factor outside of opinion (i.e. not geographic neighborhoods). Impacts are the primary tool, but the data used to create them would have to be voted on. It should be a factor that is definitive. Anything based on opinion (like neighborhood boundaries) are arbitrary and subject to opinion and argument. We want to use something that can be measured and defined. I think there can be different districts for flooding, erosion, storm surge, and sea level rise. When it comes to funding, that is where the geographic boundaries come in later based on the specific project.
2. I think the CRDs should be subject to periodic review to incorporate the latest science and new information.
3. I do not think the whole island should be a district. It defeats the purpose.
4. Future impacts should be considered and the districts defined as such based on period of vulnerability. For example, an area vulnerable to sea level rise in 2075 should be different that for those areas vulnerable in 2050.
5. I don't think betterment recommendations can be made unless there is a specific project. It would all be speculative at this point. Projects can be at multiple scales and the betterments assigned would vary based on the scope and particular project. Ultimately, the CRDs could help with assignment of betterments, but, again, it is highly project specific.

**Commented [VM23]:** Point taken. However, betterment law works with property boundary line. If the property benefits, it benefits as a whole. Assessments are made on a property by property basis.

Flooding, erosion, storm surge and sea level rise can all be modeled but they are not the kinds of maps that are legally acceptable as they just show possible risks in various scenarios. What we are seeking to do is address the risk with a funding model to pay to offset risks.

**Commented [VM24]:** Trach 2?

**Commented [VM25]:** Reads like Track 2 with elements of primary and secondary beneficiaries

The examples provided from NY are for species erosion control districts with a focus on beach nourishment projects. With this as an example, we will need different districts for different impacts.

### Homework on CRDs - from Jen Karberg

Homework on CRDs - here my thoughts so far and I hope they are helpful. Sounds like you guys have done a lot more work on this which is awesome and looking forward to hearing your professional thoughts!

There seems to be value in a CRD that is created focused on a particular intervention or project but not as effective as broad general districts.

- Nantucket should do what it needs to have the ability to create CRDs when a project is identified and ready to fund or develop ie going through the Annual Meeting/HRP

process that indicates the Town has the right to create CRDs that fit a particular project when the need is there

- CRDs should be designed to impact that those whose access, utilities and property are directly impacted and would benefit from a project
- Within that CRD should be designated property owners (appointment by neighbors or others) so that the homeowners voices are a part of the project planning process
- A CRD project could be singular ie adaptation of Millie's Bridge but would encourage grouping project action items where possible to avoid having homeowners need to participate in more than one CRD at a time ie Millie's Bridge and other erosion projects in Madaket over the bridge.
- Need to consider 'ownership' of the intervention - ie Bridgehampton beach nourishment projects became 'public facility' so that FEMA help is triggered with future impacts - what would that look like for these projects.
- Could see CRDs created for particular impacts - like south shore beach erosion CRD, Madaket erosion CRD, etc but they need to be well thought through to avoid that overlap of intervention. Brant Point CRD would be more sea level/flooding focused etc.
- Possibly looking at those broad groups the CRAC created and identifying impacts in each one that we will want to react to in the next 5-10 years and looking for the overlap, looking to where we can make connections among groups.
- Public infrastructure for the good of the island should be separated out and considered for island-wide funding: Hospital, Airport, Downtown, Polpis and Milestone Rds, Madaket Rd to the Dump, the Dump, etc -

**Commented [VM26]:** See if this can be a bullet point. Town? May depend on the land ownership.

**Commented [VM27R26]:** Recommend for Committee discussion and perhaps legal advice.

Hello,

This is a reminder about the CRDs homework that was discussed at the last CRAC meeting. Please send your responses to both Vince and I by **Wednesday 8/16**. That will give us Thursday to compile responses and put in the packet. Below are the bullet points for you to answer. Please remember not to get stuck in the minutia, you have been asked for overall guidance which will be given to the Select Board. The SB, staff and Town Council will take CRAC recommendations and use it to will help craft the home rule petition or whichever policy route is chosen.

- How are districts defined and mapped; define coastal area, risk area or who may not benefit.

Lots of thoughts on this above but CRDs should focus on intervention projects that are informed by current need or short-term projected need. Projects that are designed to be implemented should be based on longer term projections for adaptation.

When the whole island benefits (ie key infrastructure or community resources) then it's the whole island that contributes.

**Commented [VM28]:** Jen responded to the original email with her comments included. Original email text is in red and Jen's responses in black.

We can look to the CRP to create CRDs based on known risk and projects for areas, then determine if those areas can be lumped or need to remain separate. Want to avoid having people 'pay' multiple times.

**Commented [VM29]:** Sarah had a similar point about using data and set risks to define the district areas.

CRD administration should and needs to include representation from affected homeowners

- Do CRDs include sea level rise so that the districts can migrate as waters rise? Done by periodic review or set parameters?

I think this depends on the purpose of each CRD and the intervention project. I don't think so. The projects that are SLR focused should be attempting to adapt the area to SLR.

In general though, a CRD should be created and implemented for the life of a project which means there does need to be a review period after the project is completed to determine if future maintenance is needed. If the CRD needs to continue funding upkeep or, if the project becomes a public project to facilitate FEMA support, then does the CRD dissolve? This needs to be determined.

- Is the whole island the district and specific benefit sub-districts are mapped on a need's basis (i.e., ferry dock, downtown, sewer plant, airport, roadways)?

Sounds like advice for this is no - that CRD needs to be project specific. We do need to pull out those projects that have an island-wide benefit and fund them evenly across the island.

- Should the CRDs be based on future impacts to currently unaffected areas of the island?

No - unless there is specific project intervention that makes sense to put in place and fund now.

- Guidance on who pays what portion of betterments.
- Guidance on how Town regulatory boards should be involved and which by-laws and regulations need to be amended?

For reference, attached are some documents I found about the erosion control districts in Long Island, NY.

- 2 news articles (1 is kind of old)
- Playbook document gives examples of how CR projects have been paid in the past for different towns and cities



- Bridgehampton and Sagaponack FAQ sheet is about the erosion control districts Bridgehampton and Sagaponack erosion control districts website: <https://www.southamptontownny.gov/410/BECD-Control-Districts>
- Word document “coastal shoreline protection measures” on page 33 is a map of the coastal erosion overlay zones and how they are designated and then on page 39 it talks about erosion control districts.
  - Vince and I had a productive meeting with the engineer that has and is working on these beach nourishment projects and here’s a brief summary
    - 4 erosion control districts
    - Advisory board is establish that is made up of property owners in the district
    - Project was \$25 million and paid by property owners in the erosion district over 10 years
    - Cost per property was based on an equation that looked at waterfront frontage and appraised property value
    - Only ocean front property is in the district and pays for the project even though public goes and uses the beaches that are being nourished
    - They did not have to change or make any new policies or change zoning to create these districts

Sincerely,  
Leah Hill

#### THOUGHTS/SUGGESTIONS REGARDING

#### COASTAL RESILIENCE DISTRICTS (CRDs)

*Submitted to CRAC by Doug Rose, 8/16/23*

#### BACKGROUND

- The Town of Nantucket’s (TON) Coastal Resilience Plan (CRP) has identified 40 priority projects, many of which are extremely resource- and capital-intensive, with decades-long runways for planning, execution, maintenance and removal.
- TON is therefore looking to establish a unified approach to facilitate the planning, funding, construction and maintenance of these long-term resilience projects. The Select Board has identified Coastal Resilience Districts (CRDs) as a possible management tool in this effort.

#### CAVEATS/BOUNDARIES

- Before discussing the purpose of and the best options for managing CRDs, I think it’s important to establish some boundaries for how a CRD should not be *misused*. These would include:
  1. CRDs shall not be misused in any way to circumvent the authority of Nantucket’s regulatory bodies, most notably the Conservation Commission, the Planning Board, and Historic District Commission.
  2. CRDs shall not be allowed to become a means for private property owners to “jump the line”

**Commented [VM30]:** Where did we say that? We are looking at methods to pay for projects, not all projects.

**Commented [VM31R30]:** Interesting to kick the tires on this approach though. Seems like larger "whole island" projects like sewer, downtown flood barrier are capital projects.

on TON's most critical resilience measures.

- Resilience projects should be prioritized in line with those outlined in TON's Coastal Resilience Plan (CRP). A CRD designation should not change that.
- No matter how funding is secured, every resilience project requires TON project management resources and regulatory oversight. To the degree that a proposed neighborhood-level project exclusively benefits private property owners, it saps finite TON resources that could otherwise be focused on projects that benefit the entire island community. Even if private donors or neighborhood groups promise to fund planning, construction, maintenance and removal costs, that should not affect TON's resilience priorities.

**Commented [VM32]:** Nobody else has made a point like this. There is a valid point in this. However, it could limit the Town's ability to respond to developing situations as they arise. Like when the SPR washed out. That was Priority 2 and had to jump the line because there was no access.

**Commented [VM33]:** If we go down the betterment type road, its equivalent to taxes, so unavoidable in this instance. Other have made similar points and there is a bullet point for this for the committee to work on.

### WHAT ARE THE REAL GOALS OF A CRD?

- I'm not yet convinced of the value of pursuing CRDs. Here's why:
  - For resilience projects that have island-wide benefit — e.g., enhancing the resilience of the harbor transportation hub, or the airport — funding can be generated as it is for any major capital investment, through a uniform tax rate increase across the entire island's taxpayer base. As a practical matter, it seems that Nantucket is already one big CRD. No need to pass legislation just so that we can refer to the island as such.
  - For resilience projects that disproportionately benefit a specific zone of the island (e.g., Baxter Road, etc), we should first ask if it should be taking precedence over projects that are more critical to the island's survival. Setting that question aside for now, TON currently has the statutory authority to assess betterments.
- But there are probably inefficiencies in the process, some even requiring the involvement of the state legislature. So I suppose it's possible that by formalizing and unifying the necessary authority via a CRD designation, TON could realize greater long-term efficiency in planning, executing and managing resilience projects, reduce its legal exposure, and so on.
- With that possibility in mind, I'd suggest three goals for establishing a CRD, ranked in importance:
  1. The foremost purpose of establishing a Coastal Resilience District would be to enable a municipality to **more efficiently plan, fund, construct and maintain resilience projects.**
    - *If successful, designation as a CRD will enhance TON's capacity to execute the CRP.*
  2. For those resilience projects that disproportionately benefit a specific subset of property owners, a CRD should **formalize and streamline the process of mapping project benefit areas ('footprints'), and assessing betterments** on those who benefit most directly.
  3. Another benefit of establishing a CRD would be to **provide greater transparency for prospective property buyers** as to the SLR- and climate-related vulnerabilities of certain zones, and to help manage expectations of future costs associated with mitigating those vulnerabilities.

**Commented [VM34]:** The Committee may need to go back to the advice received from Town Council and Arcadis. <https://www.nantucket-ma.gov/AgendaCenter/ViewFile/Agenda/07252023-12838>

CRD's are defined geographic areas and largescale projects are for capital.

**Commented [VM35]:** Specific locations like Baxter Road, Sheep pond Road, Madaket, Brant Point are the main aim of CRD's. Having it as a CRD means we can go beyond betterments and include Operation and Maintenance and other public interests.

### THOUGHTS ON PURSUING A HOME RULE PETITION VS GENERAL BYLAW VS OTHER ROUTES

Suggestion: pursue **two** parallel paths forward, simultaneously...

1. **HRP:** In the absence of any relevant MA state statutes, TON should begin development of a Home Rule Petition (HRP) intended to achieve the following objectives:
  - establish the Islands of Nantucket as MA's first Coastal Resilience District.
    - *ideally to serve as a model for future CRDs within Massachusetts*

- authorize TON to plan resilience projects to mitigate the effects of SLR- and climate-related threats throughout the District, subject to applicable regulatory oversight.
  - *i.e., without requiring further involvement of the state legislature*
- authorize TON to define the geographical boundaries of Resilience Project Zones within the District, on an as-needed, project-specific basis, subject to a simple majority approval by Nantucket’s voters.
  - *i.e., without requiring further involvement of the state legislature*
- authorize TON to fund localized resilience projects (either partially or fully, as appropriate) via the assessment of betterments on the properties benefitted, subject to a simple majority approval by Nantucket’s voters.
  - *i.e., without requiring further involvement of the state legislature*

**Commented [VM36]:** Ask Doug to discuss this with the Committee.

**2. GENERAL BYLAW:** Because a Home Rule Petition will likely involve a multi-year process with no certainty of the outcome, TON should simultaneously begin development of a General Bylaw intended to achieve similar objectives:

- formalize TON’s authority to plan resilience projects to mitigate the effects of SLR- and climate-related threats on an island-wide basis, subject to applicable regulatory oversight.
- formalize TON’s authority to define the geographical boundaries of Resilience Project Zones within the municipality, on an as-needed, project-specific basis, subject to a simple majority approval by Nantucket’s voters.
  - *Note: Nantucket’s Flood Overlay District serves as a precedent here.*
- formalize TON’s authority to fund localized resilience projects (either partially or fully, as appropriate) via the assessment of betterments on the properties benefitted, subject to a simple majority approval by Nantucket’s voters.
  - *To be clear: TON already has statutory authority to assess betterments to properties that benefit from specific projects. Formalizing that authority specifically in regard to resilience projects may be helpful in broadening awareness of the CRP, and its relevance to individual property owners.*

**How are districts defined and mapped?**

- If the primary goal of CRDs is transparency, they should probably be mapped by threat (similarly to the flood overlay district) or neighborhood.
- But if the primary goals of a CRD is to enhance TON’s capacity to execute the CRP and streamline funding, I think we will find that the whole island should be the District, within which we will have “Resilience Project Zones” (or whatever we call them) that are **project-specific**. That’s because the costs and the benefit footprint for any coastal resilience project will be unique to that project.

**Do CRDs include sea level rise so that districts can migrate as waters rise? Done by periodic review or set parameters?**

- Benefit footprints are always going to be project-specific. Projects will have varying lifespans, which will in turn affect longevity of benefits, costs and geographic footprints.
  - Brant Point and Madaket were mentioned as examples of CRDs, within which multiple projects might be initiated. But each project would have different benefit footprints and lifespans.

**Is the whole island the district and specific benefit sub-districts are mapped on a needs basis?**

- See above. The islands of Nantucket would be the District; Resilience Project Zones would be project-based, on an as-needed basis.

**Guidance on who pays what portion of betterments.**

- These will inevitably be project-specific.

**Guidance on how Town regulatory boards should be involved and which by-laws and regulations need to be amended?**

2. Per CAVEATS/BOUNDARIES above: CRDs shall not be misused in any way to circumvent the authority of Nantucket’s regulatory bodies, most notably the Conservation Commission, the Planning Board, and Historic District Commission.

**Additional information**

**Three basic methods of implementation**

- Town Bylaw
- Zoning
- Home Rule Petition

**Betterments could be a metric of**

-Homeowner

- Lot size (Square feet)
- House size (Square feet)
- Frontage (feet)
- Assessed property value (\$)
- Length of service to your property in the betterment area (feet and value of service)

-Town

-Future residents

**Commented [VM37]:** Was reading about betterments and saw different precedents for undertaking assessments, so made a simple list.

**Commented [VM38R37]:** Also too early to decide about these things. Mainly as an FYI to the committee.



## PROCLAMATION



### September 2023 is Climate Change Awareness Month for Nantucket

- Whereas the Town of Nantucket recognizes that climate change and rising sea levels pose a significant and increasing threat to Nantucket as outlined in various state and federal scenarios; and
- Whereas the Select Board formed the Coastal Resilience Advisory Committee in part to assist with obtaining community feedback on climate change and sea level rise; and
- Whereas in 2022 the Select Board endorsed the first Nantucket Coastal Resilience Plan; and
- Whereas the Town of Nantucket, through a Municipal Vulnerability Preparedness Grant, developed a Resilient Nantucket toolkit for adapting historic resources for sea level rise; and
- Whereas the Select Board adopted local sea level rise scenarios (NOAA's high scenario) and best available flood hazard data (Massachusetts's Coastal Flood Risk Model); and
- Whereas ACKclimate Nantucket provides a platform for the public-private partnership between the community, organizations, and Town of Nantucket on issues of resilience and sustainability; and
- Whereas ACKclimate partner organizations are hosting a series of educational events in September 2023 featuring climate change topics that may be found online at: <https://www.ackclimate.org/ackevents>; and

Now jointly, the Coastal Resilience Advisory Committee and ACKclimate call upon the Select Board to proclaim September 2023 "Climate Change Awareness Month" for the Town of Nantucket.

"We, the Select Board of the Town of Nantucket in the Commonwealth of Massachusetts, do hereby officially proclaim the month of September, 2023, is 'Climate Change Awareness Month' and do hereby encourage all residents to learn more about the threats of climate change and sea level rise and the planning efforts underway to increase community resilience."

Signed, this \_\_\_\_ day of August 2023.

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Dawn E. Hill Holdgate, Chair, Select Board

Town of Nantucket, Massachusetts

The Coastal Resilience Advisory Committee meets on the second and fourth Tuesday of the month at 10:00 am via Zoom. The meeting link and agenda are posted in advance and available through: <https://www.nantucket-ma.gov/1391/Coastal-Resilience-Advisory-Committee>

For more information, email Leah Hill, Town of Nantucket Coastal Resilience Coordinator, at: [lhill@nantucket-ma.gov](mailto:lhill@nantucket-ma.gov)

ACKclimate Nantucket's mission is to support innovation and adaptation for the Nantucket community, and share the Nantucket model to help other historic coastal communities in the hopes of creating a more resilient future for all. For a schedule of Climate Change Awareness Month events, go to <https://www.ackclimate.org/ackevents>

For other information, email [coordinator@ackclimate.org](mailto:coordinator@ackclimate.org)

## Summary of Changes to Town of Nantucket Wetland Protection Regulations As of 11/28/2022

Please note this summary does not include formatting, spelling or grammatical corrections. Included in this update is a taxonomic update to all current families, genus or specific epithet, these changes will not be noted in this summary. Changes to existing italic text is highlighted yellow, plain text is new in its entirety.

General changes throughout:

Resiliency was added as a new interest in all resource areas.

Section 390-2 Definitions

Added or revised definitions

**CLIMATE CHANGE-** Climate change involves significant changes in average conditions such as temperature, precipitation, wind patterns, and other aspects of climate that occur over years, decades, centuries or longer. Climate change involves longer-term trends, such as shifts toward warmer, wetter, or drier conditions. These trends can be caused by natural variability in climate over time, as well as human activities.

**COASTAL RESILIENCE PLAN (CRP)-** Officially adopted by the Town of Nantucket at the January 12<sup>th</sup>, 2022, Select Board meeting, Nantucket's Coastal Resilience Plan serves as a community guide to addressing the challenges posed by climate change. Development of the CRP involved multiple phases of mapping, research, technical and policy analysis, community engagement, development and refinement of resilience strategies, alternatives evaluation, prioritization of alternatives, adaptation pathway development, and implementation phasing. The scientific data and mapping utilized in the CRP creates the framework upon which climate change impacts are addressed on Nantucket.

**COASTAL RESILIENCE-** The ability of coastal ecological systems to withstand, recover from, and adapt to shocks and stresses. These shocks and stresses are exacerbated by climate change through documented sea level rise and more frequent storm activity.

**COASTAL RISK AREAS-** Coastal risk on Nantucket varies based on multiple factors including, but not limited to, existing resource areas, current sea-level, projected sea-level rise, storm strength and frequency, and human activity. Properly determining these risk areas is necessary to best determine proper strategies to protect the resiliency interest within these regulations. The following definitions of coastal risk have been adopted by the Town of Nantucket based on the best-available scientific data and modeling:

- A. Extreme coastal risk- These areas face extreme coastal risk today or within the next decade. Density should be proactively reduced in these areas to reduce the immediate threat to people, property, and livelihoods. Due to extreme coastal risk, large structural investments are not recommended in these areas due to prohibitive maintenance costs and limited potential benefits. Non-structural resilience strategies that allow natural resources to function naturally and buffer against coastal hazards are best practice in these resource areas.
- B. High coastal risk- These areas may be exposed to coastal hazards within the next

30 years, or the lifetime of a typical mortgage. Due to the imminent and growing risk, large structural investments are not recommended in these areas under most circumstances, except where necessary to ensure public safety.

- C. Moderate coastal risk- These areas may be exposed to coastal hazards by 2070. In these areas approaches to adapt or protect against flooding should be examined using best available data and modeling.
- D. Low coastal risk- These areas are not likely to be exposed to coastal hazards before 2070.

COMPATIBLE MATERIAL – material compatible to the parent material in coloration (wet Munsell color), grain size, angularity and percent composition of all soil components.

DEPTH TO GROUNDWATER — Shall be determined by best information available, including but not limited to the methods listed below:

- A. Direct observation of highest groundwater elevation (including seasonal and perched groundwater).
- B. Direct observation of mottling (redoximorphic features).

GREAT POND - any pond or lake that contained more than 10 acres in its natural state. Ponds that once measured 10 or more acres in their natural state, but which are now smaller, are still considered great ponds.

HIGH TIDE FLOODING- Flooding that leads to road closures, overwhelmed storm drains, and deterioration of human infrastructure. High tide flooding is becoming increasingly common as sea levels rise and land subsides in coastal areas on Nantucket. These factors result in a greater likelihood that high tide will overtop existing bulkheads and other coastal structures leading to flooding of inland areas.

IMPERVIOUS SURFACE - A manmade surface that does not allow infiltration of water into the underlying soil. A building footprint is an impervious surface. Loose gravel or shell driveways are not impervious surfaces. Impervious surfaces that have breached over time, such as cracked asphalt, but still affect infiltration, are considered impervious surfaces.

NORMAL MAINTENANCE – those acts that are usually necessary in order to prevent a decline, lapse or cessation of a lawfully established condition. It does not include additional placement of fill on, or excavation of, previously undisturbed soils or slopes, clearing, removal, or cutting of trees greater than four (4) inches in diameter at breast height, or a change in material of an existing structure or total replacement of a structure. Partial replacement of structures may be reviewed on a case-by-case basis.

PERVIOUS SURFACE - A pervious surface is a surface that allows the percolation of water into the underlying soil. Pervious surfaces may include grass, mulched groundcover,



and planted areas. Pervious surfaces do not include any structure or building, any surface limits the covered lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, stone, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the lot. Pervious surfaces that are not properly maintained may become impervious surfaces as indicated by visible changes in drainage patterns, puddling and infiltration.

*RECREATION* — *Activities of individuals done for relaxation carried out in resource areas of the Bylaw, which include but are not limited to swimming, picnicking, walking, hunting, fishing, and boating. Preservation or expansion of unimpeded public access is needed to provide recreational opportunities to the public.*

*RESILIENCY* – The ability of communities and systems to withstand, recover from and adapt to shocks and stresses. See Coastal Resiliency.

*SEA LEVEL RISE*- Sea level rise is an increase in the ocean's surface height relative to the land in a particular location. The thermal expansion of ocean water and melting polar ice are the primary causes of today's rising sea levels. Tide gauge records indicate that since 1963 Nantucket Harbor has experienced an average of 0.14 inches of sea level rise per year. The NOAA tide gauge for Nantucket is located on Steamboat Wharf and is one of only a few locations in Massachusetts with localized tracking of historic sea level rise. NOAA also notes that Nantucket is projected to experience higher levels of sea level rise than the global average, which is consistent with similar sea level rise projections provided by the Massachusetts Coastal Flood Risk Model (MC-FRM) produced by the Commonwealth of Massachusetts.

*STRUCTURE* — *A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, platform, bin, radio antenna mast, or the like. The term "structure" may also be applied to appurtenances that are constructed primarily of impervious surfaces, such as but not limited to swimming pools, swimming pool equipment, dry-laid stone patios, recreational playing courts, roads, parking areas, parking lots, driveways, etc. Drainage basins, split-rail fences, septic tanks, subsurface propane tanks, and signs are not structures. The word "structure" shall be construed, where the context requires, as though followed by the words "or part or parts thereof."*

*STRUCTURE, COASTAL ENGINEERING* — *Any structure intended or constructed so as to prevent or alleviate storm damage, or modify tidal action, wave action, littoral flow, or erosion. Examples of these structure may include but are not limited to any bulkhead, revetment, seawall, rip-rap, groin, jetty, artificial seaweed, geotextile fabric, plastic or steel sheeting, multiple rows of fencing, or fencing using greater than 4-inches in width or diameter or other as determined by the Commission.*

*SWIMMING POOL* – means and includes every artificial pool of water used for swimming or bathing and its equipment used in connection with the pool. This includes any special purpose pool or residential pool designed for recreational and therapeutic use which is shallow in depth and not meant for swimming or diving. These pools are not drained, cleaned or refilled for each user. It may include, but not be limited to, hydro jet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for such a pool includes but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tubs, float tanks, splash pool, plunge pool, lap pool, or any other water feature that holds over 100 gallons. See attached guidelines for operation of pools

within the jurisdiction of the Commission.

### Section 390-3 Procedures

#### New Section F - Minor Activities

##### Minor activities

Certain projects may involve minimal activity and/or alteration within Resource Area Buffer Zone or any work with the Great Pond Area. The Commission may consider such projects, as defined below, to be minor in nature and is of opinion that requiring review under an RDA, or an NOI would be unnecessary. Considering the Conservation Commission designee shall have the authority to review applications for minor activities and further issue Minor Project Permits for projects that meet the standards defined herein.

1. **Applicability:** Minor projects are defined as those that occur outside of the 50' setback but inside the 100' buffer zone or within the Great Pond Area.
2. **Minor Activities:** Minor activities include but are not limited to:
  - a. Unpaved pedestrian walkways;
  - b. Split-rail fencing so long as it does not constitute a barrier to wildlife movement.
  - c. Viewshed management within the adopted viewshed management guidelines
  - d. Planting of native trees, shrubs, or groundcover, but does not include turf lawns.
  - e. Conversion of impervious surface to natural vegetation.
  - f. Removal of dead or dying trees or pruning of live trees that pose a hazard to structures or public safety as determined by a certified arborist.
  - g. Benches installed for public use.

#### G. Waivers of Requirements

##### New (e)

The Commission may grant a waiver from these regulations when the project as proposed provides a significant public benefit and adverse impacts are minimized by project design or conditions imposed by the Commission.

### Section 390-6 Land under the ocean

*The Commission finds that regulations applicable to activities involving land under the ocean are necessary and proper for the following reasons: Land under the ocean provides feeding areas, spawning and nursery grounds, and shelter for many coastal organisms related to marine fisheries and wildlife. Destruction of eelgrass beds (Zostera marina) will harm scallop production. Eelgrass beds also buffer against climate change by sequestering carbon and diminishing wave energy during storms. Nearshore areas, and in some cases offshore areas, of land under the ocean help reduce storm damage, erosion, and flooding*

*by diminishing and buffering the high-energy effects of storms. Submerged sand bars dissipate wave energy. Such areas provide a source of sediment for seasonal rebuilding of coastal beaches and dunes. The bottom topography and sediment type of nearshore areas of land under the ocean are critical to erosion control, storm damage protection, and flood control and resiliency.*

2. Disturbance to benthic habitats have been shown to impact the following interests of the Wetlands Protection Act:

Protection of Wildlife Habitat

Protection of Marine Fisheries (particularly juvenile Cod and other species)

Protection of Land Containing Shellfish

Storm Damage Prevention

The maintenance of the productive benthic habitats not only assures the continuance of the habitats themselves, but also plays a direct role in supporting fish and shellfish stocks by providing a major food source. The young shellfish in the planktonic larval stage that are produced in large quantities during spring and summer are an important source of food for the young stages of marine fishes and many crustaceans. When a resource area is found to be significant to the protection of land containing shellfish under 310 CMR 10.34(3), and is also significant to marine fisheries, the following factors are critical to the protection of those interests:

- (a) shellfish,
- (b) water quality,
- (c) water circulation, and
- (d) the natural relief, evaluation or distribution of sediment grain size of such land.

Under 310 CMR 10.25, the jurisdiction of the Conservation Commission extends into the Nearshore Areas of Land under the Ocean, extending seaward to a point where the land is at a depth of 40 feet below the level of the ocean at mean low water in Cape Cod Bay, and to a depth of 80 feet below mean low water in all other areas.

Under 310 CMR 34(4), “any [activity on] land containing shellfish shall not adversely affect such land or marine fisheries by a change in the productivity of such land caused by:

- (a) alterations of water circulation,
- (b) alterations in relief elevation,
- (c) the compacting of sediment by vehicular traffic,
- (d) alterations in the distribution of sediment grain size,
- (e) alterations in natural drainage from adjacent land, or changes in water quality, including, but not limited to, other than natural fluctuations in the level of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.

No activity may adversely affect land containing shellfish in the following manner:

(a) The turbulence generated by hydraulic dredging significantly increases turbidity levels. High turbidity levels attenuate light, which is necessary for photosynthetic process responsible for the primary productivity and oxygen regeneration of the water.

(b) The suspended sediments settle on shellfish beds, smothering existing shellfish and altering the quality of the benthic environment essential for spat (mollusk larvae) settlement.

(c) Resuspension of bottom sediments causes redistribution of sediments, alteration in sediment grain size distribution and causes changes in bottom topography relief, elevation and grade, including the creation of depressions in the bottom. Settlement of sediments into depressions can create deep pockets of highly fluid like sediment which may not be able to physically support shellfish, or which can become anoxic and therefore not support shellfish.

(d) Disturbance of sediments during the period of shellfish larval settlement hinders or prevents the effective settlement of shellfish larvae. Hydraulic dredging has also been shown to adversely impact the interest of storm damage prevention, by uprooting vegetation and undermining the stability of land under the ocean. The underwater "terrace" contours of the trenches created by hydraulic dredging contributes to erosion of the adjacent beach, coastal dunes and banks during storm events.

#### Performance standards:

Residential piers shall be constructed so as not to change shoreline movement of sediment, harm shellfish resources, obstruct commercial shellfishing, or obstruct the reserved public rights of fishing, fowling, navigation, or passage. Residential piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave life of the structure. Residential piers shall not displace public moorings without written approval from the Harbormaster. No solid-fill piers shall be permitted.

Construction of commercial piers shall be in compliance with Chapter 139, Zoning, of the Code of the Town of Nantucket and shall not affect sediment transport and shall not destroy or pollute fisheries and shellfish habitat or nutrient source areas for those resources. Commercial piers shall be constructed so as to withstand projected sea level rise and associated impacts based on the best available scientific data and modeling during the cradle-to-grave life of the structure. No solid-fill piers or new residential piers shall be permitted.

No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed or substantially improved after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built prior to September 1978, but not substantially improved, from imminent danger. The use of any or all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts.

Water-dependent projects shall be designed and performed so as to cause no adverse effects

on wildlife, erosion control, marine fisheries, shellfish beds, storm damage prevention, flood control, recreation, resiliency and aquatic vegetation.

No activity that disturbs benthic habitats shall occur within the waters under the jurisdiction of the Nantucket Conservation Commission without a proper filing before the Conservation Commission.

Taking of shellfish or finfish by mechanical means including but not limited to trawls, drags, rakes and hydraulic gear with the assistance of machinery is prohibited within Nantucket waters. This does not include the use of bay scallop dredges, manual rakes or other hand operated devices for the collection of shellfish or baitfish with or without the use of scuba gear.

### **Section 390-7 Coastal beaches**

Updated description

Updated performance standards

- (2) *No new bulkheads, groins or coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978. Bulkheads may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure built prior to September 1978, and not substantially improved, from imminent danger.*

*The use of any and all forms of coastal engineering structures requires an appropriate annual mitigation plan and implementation to ensure no adverse impacts as set forth by the Commission. Mitigation shall reflect current and future needs to ensure no adverse impacts to the littoral system or adjacent coastal beach and/or coastal dunes.*

- (7) *In areas of eroding shoreline, the distance from all buildings to the coastal beach shall be at least 20 times the average annual shoreline erosion or 100 feet, whichever is greater. The average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a one-hundred-fifty-year period ending the date the NNOI was filed or, if no NNOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time period for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10-year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application. In cases where documentation can be provided to show*

*that the use of the 10- or one-hundred-fifty-year period is inappropriate to existing shoreline characteristics and trends, alternate shoreline change rates may be used when based on a preponderance of credible evidence.*

## Section 390-10 Coastal Bank

Updated characteristics

Performance Standards

*Revised #2*

*No new bulkheads, coastal revetments, groins, or other coastal engineering structures shall be permitted to protect structures constructed, or substantially improved, after August 1978. Bulkheads and groins may be rebuilt only if the Commission determines there is no environmentally better way to control an erosion problem. An alternatives analysis must examine living shorelines or in appropriate cases the moving of the threatened building or infrastructure. If either of these methods is feasible then the bulkhead or groin may not be rebuilt. Other coastal engineering structures may be permitted only upon a clear showing that no other alternative exists to protect a structure that has not been substantially improved or public infrastructure built prior to September 1978 from imminent danger. The mitigation provided for use of any structure to protect against erosion must have no adverse impact on adjoining coastal beach, coastal dune, barrier beach, or coastal banks.*

*New #7*

In areas of an eroding coastal bank, the distance from all new structures to the coastal bank shall be at least 20 times the average annual erosion rate or 100 feet, whichever is greater. The average annual erosion rate shall be determined by averaging the annual erosion over a one-hundred-fifty-year period ending with the date the NOI was filed or, if no NOI was filed, the date construction began. If erosion data are not available for the one-hundred-fifty-year period, the Commission shall determine the average annual erosion rate from such lesser time for which erosion data is available. A second annual average annual shoreline erosion rate shall be determined by averaging the annual erosion rate over a 10-year period ending the date the NOI was filed, or if no NOI was filed, the date construction began to determine if erosion has accelerated. If erosion has accelerated over the contemporary time period, the higher erosion rate shall be used to determine mitigation requirements for the application in cases where documentation can be provided to show that the use of the one-hundred-fifty-year period is inappropriate to existing coastal shoreline characteristics and trends, alternate shoreline change rates may be used with the approval of the Commission.

## Section 390-11 Salt Marsh

Updated characteristics

*The ability for Salt Marshes to migrate landward as sea levels rise is critical to enhancing the resiliency of coastal areas.*

## Performance standards

### Updated #4

*All projects which are not water-dependent shall maintain at least a ~~25-foot~~ 50-foot natural undisturbed area adjacent to a salt marsh. All structures which are not water-dependent shall be no closer than 75 feet to a salt marsh, and all structures shall maintain an undisturbed two-foot separation to high groundwater. Pools shall not be eligible for a waiver from this requirement. Fifty percent of the area between the twenty-five-foot buffer and the fifty-foot buffer shall not be altered. Additional soils and groundwater information may be required for applications in areas of high ground water.*

### New #10

A project which will restore or rehabilitate a salt marsh may be permitted; provided, however, that this section shall not be construed as to allow the alteration of one salt marsh on a given site by or contingent upon the restoration of another

## Section 390-16 Land Subject to Coastal Storm Flowage

### Performance standards

#### New #4

Building upon areas subject to coastal storm flowage and sea-level rise in locations where such structure would be subject to storm damage or high-tide flooding may not be permitted. New construction that is not water-dependent may not be permitted in areas defined as high- or extreme coastal risk in this Bylaw. When permitting new projects, risk determination shall utilize the latest available data from Nantucket's NOAA tide gauge and the latest sea-level rise projections available from the Massachusetts Coastal Flood Risk Model (MC-FRM). If permitted, all construction must be in compliance with state and local building code regulations for flood hazard areas.

#### New #5

All swimming pools are prohibited from being located within Land Subject to Coastal Storm Flowage.

## Section 390-18 Bordering Vegetated Wetland

### Performance standards

#### Revised #1

Removed the requirement for a two-foot separation to groundwater for structures.

#### New #2

All structures shall maintain an undisturbed two-foot separation to high groundwater. Should this separation not be possible a waiver request must include a hydrostatic analysis and any intrusions into groundwater shall be required to be non-toxic and demonstrate no adverse impact to groundwater. Pools shall not be eligible for a waiver from this requirement.

## New section 390-23 Great Pond Area

### **§ 390-23. Great Pond Area**

- A. The Commission finds that regulations applicable to activities within the great pond area (except as these activities are located within other wetland resource areas) are not appropriate for the following reasons:
- (1) A great pond area is the area of land between great ponds mean annual high-water line and a parallel line measured horizontally outward to a distance of 200 feet. The great pond area may include or overlap other wetland resource areas or their buffer zones. The great pond area does not have a buffer zone.
    - (a) All activities, projects or work proposed within the great pond area shall in addition to any other required filing submit a minor activity request prior to the start of work.
    - (b) Any proposed work will be evaluated as to contain continuous natural, native habitat linkages to the Great Pond.



## New Appendix D – Swimming Pool Guidelines

### Appendix D

#### Swimming Pool Guidelines

1. All pool drainage shall be in compliance with the most current pool draining Best Management Practices set forth by the National Swimming Pool Foundation.
2. Pool drainage, filter backwash, or filter discharge must not be directly discharged into a storm drain, sewer main, potable water well, or within 100 feet of a wetland.
3. Any subsurface on-site drainage facility servicing the pool must comply with these regulations.
4. No pool or pool equipment shall be connected to an on-site sewage disposal system.
5. All pool drainage or surface runoff related to the pool and its hardscaping shall be contained on-site.
6. All pools must be dechlorinated at least 48 hours before any draining.
7. Notification of pool drainage shall be provided to the Health Department and the Natural Resources Department a minimum of 72 hours before drainage commencement.
8. A Statement of de-chlorination and drainage shall be provided to the Health Department within 10 calendar days of drainage along with the appropriate filing fee as determined by the Select Board. No pool draining, or discharge activities are allowed without the approval of the Health Department and the Natural Resources Department
9. All pool draining processes are subject to inspection by any agent of the Commission.

## New Appendix E – Viewshed Management Guidelines

**Town of**

**Nantucket**

**Appendix E**

Town of Nantucket

Viewshed Management Guidelines

The Town of Nantucket Conservation Commission finds that the proper maintenance of vegetation is needed to protect wildlife, wildlife habitat, resiliency, erosion control, flood control, recreation, and wetland scenic views.

When a proposed activity involves the altering of a Buffer Zone, the Commission shall presume the Buffer Zone is significant to the protection of all the resource values protected by the Bylaw. These presumptions may be overcome only upon a clear showing that the Buffer Zone does not play a role in the protection of those interests. No work will be permitted in the Buffer Zone that has a significant adverse impact upon the interests given above and only upon a specific written determination to that effect by the Commission.

Vista Pruning/Cutting in these guidelines refers to the selective cutting of vegetation within a resource area or resource area buffer zone to improve a view through a pre-determined vista corridor. This activity does not include the cutting of trees to less than 90% of the existing crown cover, mowing, or removal of understory brush.

No new vista cutting is allowed without first receiving a permit from the Nantucket Conservation Commission. Once permitted the view corridor may be maintained in keeping with these guidelines. Any existing areas being maintained for viewshed purposes shall do so in keeping with these guidelines.

No work is allowed within resource areas without a permit. Viewshed management outside of the 50' setback may qualify as a minor activity.

Maintenance pruning is not allowed within resource areas. Exception being the maintenance of vegetation along public pedestrian access ways.

Properties located only within Land Subject to Coastal Storm Flowage are exempt from these guidelines.

### **General Guidelines**

1. Each residential structure shall be allowed one viewshed corridor. Corridors may be no more than 15 feet from top to bottom and shall be 20' wide at the end closest to the structure and 25 feet on the resource area side of the corridor.
2. Should the lot contain more than one structure viewshed corridors must be separated by a minimum of 25'.
3. Lots open to the public as open space shall be allowed one corridor for every 100 linear feet of buffer zone/resource area.
4. Clear cutting is prohibited as is the topping of trees.
5. Pruning must preserve vegetative layers, habitat, and biodiversity.

6. No viewshed management shall be done between April 1<sup>st</sup> and September 30<sup>th</sup> to protect the breeding season and nesting birds. This time may be extended by specific request to the Nantucket Conservation Commission.

### **Layer Specific Guidelines**

#### **Trees:**

1. No tree greater than 4" DBH (diameter at breast height) shall be cut down. Any tree to be removed must be reviewed by Commission staff.
2. Internodal pruning cuts should be avoided wherever possible to reduce decay and suckering. Branches should be pruned back to a lateral at least 1/3 the diameter of the cut stem.
3. Deadwood should be preserved whenever possible as it provides essential foraging and nesting habitat.
4. Should a dead or diseased tree be deemed to be hazardous by a certified arborist it would be eligible for removal.
5. Should the trees be less than 4" DBH then selective removal may be authorized by Commission staff following an assessment in the field.
6. No more than 15% of the lower branches of a tree shall be removed.
7. All cut material removal shall be performed by hand.
8. Vines that pose a threat to the health of a tree may be removed by hand.
9. Invasive trees are eligible for removal. If replacement is required, it must be of an appropriate native species.

#### **Shrubs:**

1. No shrub shall be cut to a height lower than 4 feet.
2. Shrubs shall be cut to varying heights to mimic natural growth.
3. Shrubs must maintain their natural growth habit to promote flowering and fruiting.
4. Vines impacting the health of the shrub may be removed to promote the health of the shrub. All vine removal must be by hand.
5. Invasive shrubs are eligible for removal and replacement with appropriate native species.

#### **Groundcover:**

1. Disturbance to groundcover is not allowed unless by permit.
2. Maintenance of private pedestrian walkways of less than three feet wide is allowed. Maintenance of public walkways is allowed to the appropriate width based on use. All vegetated walkways should meander to minimize runoff or erosion.

New fee schedule

FEE SCHEDULE  
(Effective MM/DD/YEAR)

<u>Notice of Intent (NOI)</u>	Town Bylaw Fee
a) Category 1 (additions, Site work, control vegetation, etc.)	\$200
b) Category 2 (houses, beach nourishment, etc.)	\$300
c) Category 3 (roads, etc.)	\$400
d) Category 4 (dredging, etc.)	\$500
e) Category 5 (piers, seawalls, etc.)	\$5.00 per linear foot
f) Category 6 (confirm wetland delineations)	\$4.00 per linear foot
g) Waiver request fee	\$150+NOI Fee
<u>Request for Determination of Applicability (RDA)</u>	
a) General	\$150
b) Resource Area Confirmation	\$250
<u>Certificate of Compliance</u>	
a) Initial filing	\$125
b) Each re-docketing/revisit	\$50
<u>Extension Permit</u>	\$100/year requested
<u>Amended Order of Conditions</u>	\$150
<u>Abbreviated Notice of Resource Area Delineation</u>	\$250
<u>Plan Change/Minor Modification</u>	\$75
<u>Minor Activity Application</u>	\$50
<u>AFTER-THE-FACT FILINGS</u>	
a) Non-Enforcement Related	2X Regular Filing Fee
b) Enforcement Related Filing	10X Regular Filing Fee