

1 Proposed Changes to Edgartown’s Special Ways By-Law

2 1/23/08

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5 From Town of Edgartown Zoning By-Laws

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7 Article XIV. Overlay Districts

8  
9 **14.2** Island Road District

10 1. Major Roads [Unchanged]

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12 2. Special Ways

13 a. Purpose

14 The Special Way designation protects old cart paths and walkways that are  
15 cultural and historic links to the community's past, recreational resources for  
16 enjoyment of the outdoors, and a conservation resource to accommodate and  
17 promote non-motorized means of transportation. While some segments of a  
18 Special Way may be routinely used by automobiles, they nevertheless provide  
19 continuity to the entire Special Way and the community maintains an interest in  
20 how these segments are further utilized.

21 b. Designated Special Ways

22 Special Ways are typically evidenced by cart path depressions in the terrain  
23 measuring from a few inches to more than a foot. The Special Way is measured  
24 from the tops of the embankments on either side of the way. Absent such  
25 physical evidence or other documentation, its width shall be assumed to be eight  
26 (8) feet.

27 Segments of Special Ways that are routinely traveled by automobiles may not  
28 have any physical characteristics to distinguish them from contemporary dirt  
29 roads. Such segments and their widths are noted as Special Vehicular Ways on  
30 a map entitled “Map of Special Ways, January 1, 2008.” (Hereinafter “Map”).

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32 The designated Special Ways are (map and lot numbers refer to Edgartown  
33 Assessors maps dated January 1, 2007 unless otherwise noted):

- 34 1) Dr. Fisher Road (a.k.a. Willay's Plain Path) - beginning at the Edgartown-  
35 West Tisbury Road at the western edge of Map 22 Lot 2.1 and running  
36 northwest to the Manuel Correllus State Forest at the northern edge of Map  
37 22 Lot 54 (Edgartown Assessors maps dated January 1, 1999).
- 38 2) Ben Tom’s Road – beginning at the north side of Edgartown-West Tisbury  
39 Road between Map 28 Lot 6 and Map 21 Lot 96 northwesterly and northerly  
40 following the west fork to Pennywise Path along the southern border of Map  
41 21 Lot 169.
- 42 3) Middle Line Path – beginning at Ben Tom’s Road at the easternmost point of  
43 Map 21 Lot 133.1 and running northwesterly to its merging with Pennywise  
44 Path at the westernmost point of Map 22 Lot 125.20.
- 45 4) Pennywise Path – beginning at Tar Kiln Road and Three Cornered Rock  
46 Road easterly, across Whaler’s Watch Way, to the northwestern point of Map  
47 21 Lot 148.1, continuing easterly then northeasterly and ending at  
48 Edgartown-Vineyard Haven Road at the northeast corner of Map 21 Lot  
49 36.33.

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- 5) Tar Kiln Path – beginning at the Manuel Correllus State Forest between Map 10 Lot 96 and Map 11 Lot 1.143 running east to its intersection with Three Cornered Rock Road in the interior of Map 11 Lot 86.1.
  - 6) Watcha Path – beginning at the northeast point of Map 25 Lot 4, west of the intersection of Edgartown-West Tisbury Road and Oyster-Watcha Road, extending westerly some 360 feet along a segment formerly known as Mill Path, then southwesterly to the northeast point of Map 40 Lot 4.2, continuing southwesterly to the West Tisbury town line at the southern boundary of Map 40 Lot 6.
- c. Establishment of the Special Way Zone  
The area lying within twenty (20) feet of the centerline of a designated Special Way shall comprise the Special Way Zone and be subject to the regulations herein.
- d. Development Regulations
- 1) Development and use within a Special Way Zone shall not block or prevent non-motorized means of travel such as walking, horseback riding and bicycling along a Special Way.
  - 2) There shall be no alteration of the width or surface of a Special Way. This provision is not intended to prevent the routine maintenance and repair of existing segments of Special Ways consistent with these Special Way regulations.
  - 3) No Special Way shall be paved with impervious materials.
  - 4) Except as allowed as part of a Special Permit issued under 14.2.2.f, there shall be no removal of existing vegetation within a Special Way Zone other than to keep the Special Way clear of debris and overgrown vegetation, except where:
    - a. natural vegetation has been removed prior to December 1, 2007,
    - b. the width of a Special Way Zone extends beyond a pre-existing fence shown on the Map, or
    - c. the width of a Special Way Zone extends beyond a fence allowed herein.
  - 5) No fences, walls, structures, excavations, fill or obstructions shall be erected, placed or constructed within the Special Way zone.
  - 6) Notwithstanding 2.d.4 and 2.d.5 above, areas where the Special Way Zone encompasses a portion of property that is one (1) acre or less in area may have fences erected on it within the Special Way Zone based upon the height and transparency of the intended fence.

<u>Fence height</u>	<u>Fence Type</u>	<u>Minimum Set Back from Center Line</u>	
		<u>Special Way</u>	<u>Special Vehicular Way</u>
< = 5'	All	5' *	One foot outside traveled width
+5'	All but stockade	10'	10'

\*or one (1) foot back from the physical edge of the top of the embankment alongside the Special Way, whichever is greater.  
A stockade fence shall mean any fence that prevents 90% or more visible light to pass through it.

- 7) The Special Ways are for non-motorized transportation and recreation only, except for those segments identified on the Map as Special Vehicular Ways and where vehicular rights-of-way pre-exist the designation of the Special Way.

- 104 e. Permitted uses in the Special Way Zone  
105 Any residential, recreational, agricultural or open space use permitted in the  
106 underlying zoning districts in which the Special Way Zone lies is permitted,  
107 subject to the regulations herein and provided that the use does not involve  
108 motor vehicle use of the Special Way segments, except for those segments  
109 identified on the Map as Special Vehicular Ways and where vehicular rights-of-  
110 way pre-exist the designation of the Special Way.
- 111 f. Uses Requiring a Special Permit in the Special Way Zone
- 112 1) Any uses permitted in the underlying zoning districts in which the Special  
113 Way Zone lies which involve motor vehicle use of the Special Way or  
114 additional vehicular access (i.e. entrances or curb cuts) to the Special Way.  
115 Where property has a right to vehicular access via a Special Way, the  
116 Planning Board shall seek to evaluate and determine if:
- 117 a. alternate access is or might be available that could avoid vehicular use of  
118 the Special Way;  
119 b. an existing access already serves the property; and  
120 c. the location and width of the proposed access, its distance from other  
121 existing accesses, and the vegetation in the immediate surroundings are  
122 consistent with the purpose of this bylaw.
- 123 2) Uses allowed by Special Permit in the underlying zoning districts in which the  
124 Special Way Zone lies.
- 125 3) Crossing of a Special Way by a proposed dirt, paved, or otherwise improved  
126 roadway or by a utility or transmission line. Consideration of such crossings  
127 shall include deliberation of appropriate means to draw attention to the  
128 crossing for people's safety, including the surface composition of the  
129 crossing.
- 130 4) Development, uses, or structures for which the imposition of these  
131 regulations would otherwise deprive a landowner of all economically viable  
132 use and value of the parcel of land owned or controlled by the applicant,  
133 considered as a whole.
- 134 5) Where new roadways or other vehicular or utility right-of-ways, which  
135 encompass segments of any Special Way, are permitted or created by the  
136 Town of Edgartown, provisions shall be made to ensure that the integrity of  
137 the Special Way remains, consistent with the purpose of this bylaw.
- 138 g. Criteria for Special Permits  
139 In considering a request for a Special Permit, the Planning Board shall consider  
140 whether the request is consistent with the purpose of the Special Way  
141 designation (14.2.2.a), whether the request is consistent with the intent of this  
142 bylaw, and whether the request will create conflicts with present or future uses of  
143 the Special Way. The Planning Board may grant a Special Permit for the use or  
144 alteration of a Special Way authorizing the way to be used or expanded to a  
145 width greater than twelve (12) feet only after the matter has been referred to the  
146 Martha's Vineyard Commission for review as a Development of Regional Impact  
147 and only after the Commission has approved the application.
- 148 h. Relocation of a Special Way  
149 Relocation of a portion of a Special Way may be approved by the Planning Board  
150 upon holding a public hearing and finding that the relocation would: preserve the  
151 continuity of the way, create new trail connections, provide increased public trail  
152 access, improve safety, or otherwise enhance the way for trail users. However, it  
153 is beyond the jurisdiction of the Planning Board by such action to either grant or  
154 extinguish public or private rights-of-way that may exist in the Special Way.  
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