



Citizen Warrant Article

Primary Sponsor

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COASTAL LIABILITY ARTICLE: REASON AND INTENT

This article was included in the Warrant for [ATM2015](#). It had a negative motion from the Planning Board; however, it had a positive Comment from the Finance Committee. (From the 2015 Warrant: “FINANCE COMMITTEE COMMENT: The Finance Committee does not support the Planning Board’s Motion. The Committee believes that the Town should pursue all available avenues to reduce its liability for the financial impacts of erosion.”) It was “Not adopted by Majority Voice Vote”. With the passage of time, protecting the Town from financial liability due to climate change and sea level rise becomes only more important. The impact is prospective, and the sooner action is taken, the sooner protection will begin. It is just a matter of property owners accepting personal responsibility for the choices they make. The article below is exactly the same as the one submitted for ATM2015. It was originally drafted by Town Counsel. [For further information about this article, see [Final Voters’ Guide for ATM2015](#), page 13 for Article #42.]

TEXT OF PROPOSED COASTAL LIABILITY ARTICLE:

(Zoning Bylaw Amendment/Home Rule Petition: Coastal Erosion Liability Waiver)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, Section 139-26, as follows (NOTE: **new language is shown as highlighted text**; these methods to denote changes are not meant

to become part of the final text and, further, that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket); and to further authorize the Board of Selectmen to file a Home Rule Petition with the General Court to effectuate the purposes and intent of the zoning amendment should it be deemed necessary and/or prudent to do so by the Board of Selectmen:

Chapter 139 ZONING

Article V. Administration and Enforcement

§ 139-26. Issuance of building and use permits.

A. No building or structure shall be used, erected, constructed, relocated, added to or otherwise subjected to alteration, or demolished without a building or use permit having been issued by the Building Commissioner for any use or structure. No lot shall be changed from its use preexisting the July 27, 1972, effective date of this chapter, except to its natural condition allowed by § 139-7A(5) above, without a use permit or a building permit permitting such use. No such permit shall be issued until such construction, erection, relocation, addition, alteration, demolition or use, as proposed, shall comply in all respects with the provisions of this chapter as determined by the Zoning Enforcement Officer or with a decision rendered by the Board of Appeals, the Planning Board, or the courts in the case of appeals.

(1) Demolition delay.

(e) Issuance of building, use, or occupancy permit.

[1] If it has been determined that a building is subject to review, pursuant to Subsection A(1)(b) above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.

[2] If it has been determined that a building subject to review has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.

[3] The applicant (or the owner of record, if different from the applicant) shall be responsible for properly securing the building during the time that it is subject to review under this section. If a building is subject to demolition delay, pursuant to Subsection A(1)(b) above, and the applicant fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.

[4] The issuance of a building permit for construction on Shorefront Land or within 300 feet of Shorefront Land shall be required to, in exchange for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement (“Release”) relative to said permitting and the potential for coastal erosion and impacts on or elimination of public access to the property at issue. Said Release shall be maintained by the Building Commissioner.

(2) Any applicant seeking a building permit pursuant to the terms of this Section for construction on Shorefront Land or property within 300 feet of Shorefront Land shall be required to, in consideration for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement (“Release”) acknowledging the potential for coastal erosion in the vicinity of the property at issue and the potential for impacts on or elimination of public access to said property due to coastal erosion. Pursuant to said Release and the issuance of a permit, the applicant shall understand and be advised that the proposed construction/reconstruction site at or within 300 feet of the Shorefront Land may be subject to extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence and said Owner shall assume full and sole risk for such hazards, including any restrictions on public access to said property. As such, the Owner shall unconditionally waive any present, future, and unforeseen causes of action and claims of liability on the part of the Town arising from the aforementioned or other natural hazards and relating to said permit approval and resultant construction, as a condition of approval. Further, the Owner shall agree to indemnify and hold harmless the Town and its departments, boards, officials and employees for any acts or omissions and related cost of defense, including, but not limited to, claims related to impacts on or reductions in public access to said property, arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner, Owner's successor-in-interest and/or third parties.

D. Issuance of permits. Upon receiving the application, the Building Inspector shall examine the same within a reasonable time after filing. The Zoning Enforcement Officer shall provide the Building Commissioner with a certificate of

compliance with this chapter. If the application does not conform to the provisions of all pertinent local laws, the Building Commissioner shall reject such application in writing, stating the reasons therefore, within 30 days of the submission of a complete application.

(1) He shall inform the applicant of his right of appeal to the Board of Appeals in the event such application is rejected.

(2) If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all laws and ordinances applicable thereto, he shall issue a building or use permit thereto, within 30 days of the submission of a complete application.

(3) The issuance of a permit for construction on Shorefront Land or within 300 feet of Shorefront Land shall be required to, in exchange for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement ("Release") relative to said permitting and the potential for coastal erosion and impacts on or elimination of public access to the property at issue. Said Release shall be maintained by the Building Commissioner.

H. Temporary permit. A temporary permit may, upon written request of an applicant, be authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years. Applicants for a temporary permit to engage in construction on Shorefront Land or within 300 feet of Shorefront Land shall be required to, in exchange for the issuance of a temporary building permit, execute a release, hold harmless and indemnification agreement ("Release") relative to said permitting and the potential for coastal erosion or impacts on or elimination of public access to the property at issue.

I. Payment of fees. No building or use permit shall be issued until the fees prescribed by the Board of Selectmen shall be paid to the Building Inspector.

J. Compliance with permit. All work or uses shall conform to the approved application for which the permit has been issued as well as the approved plot plan.

K. Disclaimer of Liability. This Bylaw shall not create any liability on the part of the Town, its departments, boards, officials and employees for any extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence damage that results from reliance on this Bylaw or any administrative decision made lawfully thereunder.



Citizen Warrant Article Questionnaire

The Finance Committee (FinCom) encourages article sponsors to provide complete and comprehensive answers to the below questions. Your materials will be distributed to members well in advance of the Public Hearing at which you will have the opportunity to speak on your proposal. The more specific and relevant information provided on the action you seek from the Town Meeting, the more prepared FinCom will be for the actual hearing with you. The questionnaire is not required but is intended to provide a full set of materials for the FinCom to evaluate. Additional sheets may be attached to this form.

Date Form Completed: 11/30/19	Date Rec'd by Town Admin:
Article Title: Coastal Erosion Liability Waiver Article	
Sponsor Name: Rick Atherton	Email: rickatherton@comcast.net

<i>1</i>	<i>At a summary level, what is the proposed purpose and objective of this Warrant Article?</i>
Response	The purpose of this article is to protect the Town from financial liability due to climate change and its impacts on sea level rise and coastal erosion. With the passage of time, protecting the Town from financial liability due to climate change and sea level rise becomes only more important. The impact is prospective, and the sooner action is taken, the sooner protection will begin. It is simply a matter of property owners accepting personal responsibility for the choices they make.
<i>2</i>	<i>Does the community-at-large gain value through the article? If so, how?</i>
Response	The community gains value through this article because it requires the owners of shoreline property to accept personal responsibility for possible risks caused by coastal erosion in a time of climate change and sea level rise. If adopted, the article would prevent private property owners from being able to threaten the Town (and the taxpayers) with being liable for financial costs associated with possible erosion of private property.

3	<i>Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.</i>
Response	Yes. See the pages of Shoreline Setback Ordinances on the Shoreline Setback page of the Kauai (Hawaii) County Planning Department web site: https://www.kauai.gov/Government/Departments-Agencies/Planning-Department/Shoreline-Setback . Here is the salient language related to liability waivers: “The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kauai harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures or activities from any coastal natural hazard and coastal erosion.” There are many more such regulatory initiatives in communities subject to coastal erosion.
4	<i>What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (Example: personnel costs, maintenance, equipment, supplies, etc.); and, what would be the proposed funding source?</i>
Response	There will be some administrative cost to develop forms and a procedure to be sure that building permits are issued only in conformance with the by-law. If legal review costs are not covered by the Town’s retainer, there could be charges billed by Town Counsel. Over time, the Town will save resources by avoiding suits and claims. It would only take one successful liability claim (if this article is not adopted) to cost the Town well in excess of any costs associated with the adoption of this article.
5	<i>Who do you envision executing the outcome of the article? (Will it require a new position; how would it fit in with a particular department; who would enforce it; who would be in charge of implementing it)? Have efforts have been made to involve the necessary participants as to the impacts of executing the article?</i>
Response	See #4 above, as well as this response in more detail. The cost to implement this article by the Building Inspector would be minimal. The additional time to verify applicability to specific properties should be no less burdensome than many other regulations added to the Code of Nantucket, such as the requirements of the Massachusetts building stretch code.

6	<i>Is the topic of the article contained within any Town Plan (i.e., Master Plan, Transportation Plan, Capital Improvement Plan, Strategic Plan)?</i>
Response	While perhaps not directly related to other Town plans, the general topic of SUSTAINABILITY and several other sections of developing resiliency planning should contain methods to deal with the impacts of climate change. More specifically, the Municipal Vulnerability Plan, the Coastal Management Plan (for Town-owned property), and the Coastal Resiliency Plan (under development) should address the topic of this article which is, simply put: In a time of climate change and rising sea level, who should bear the risk of financial liability of coastal erosion and inundation? The individual property owners or the taxpayers?

Coastal Liability Warrant Article 2020

While there are many communities that require waivers, below are four example links to other coastal communities with similar waiver requirements:

Island of Kauai:

https://www.kauai.gov/Portals/0/Planning/Ordinance_979_Shoreline_Setback_Amends%20887%2012-05-14.pdf?ver=2017-07-06-153242-393

Hermosa Beach- Planning Application Form- Section 6-

<http://www.hermosabch.org/modules/showdocument.aspx?documentid=435>

Huntington Beach- p.4-Indemnification and Hold Harmless

Condition: <http://www.huntingtonbeachca.gov/Government/Departments/Planning/ZAAgenda040214.pdf>

County of Mendocino, CA- Zoning Ordinance (Section 1.04.120)-

https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodeId=MECOCO_TIT1GEPR_CH1.04INGE_S1.04.120INHOHALAUSAP



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to become part of the final text and, further, that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket); and to further authorize the Board of Selectmen to file a Home Rule Petition with the General Court to effectuate the purposes and intent of the zoning amendment should it be deemed necessary and/or prudent to do so by the Board of Selectmen:

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(1) Demolition delay.

(e) Issuance of building, use, or occupancy permit.

[1] If it has been determined that a building is subject to review, pursuant to Subsection A(1)(b) above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.

[2] If it has been determined that a building subject to review has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.

[3] The applicant (or the owner of record, if different from the applicant) shall be responsible for properly securing the building during the time that it is subject to review under this section. If a building is subject to demolition delay, pursuant to Subsection A(1)(b) above, and the applicant fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.

[4] The issuance of a building permit for construction on Shorefront Land or within 300 feet of Shorefront Land shall be required to, in exchange for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement (“Release”) relative to said permitting and the potential for coastal erosion and impacts on or elimination of public access to the property at issue. Said Release shall be maintained by the Building Commissioner.

(2) Any applicant seeking a building permit pursuant to the terms of this Section for construction on Shorefront Land or property within 300 feet of Shorefront Land shall be required to, in consideration for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement (“Release”) acknowledging the potential for coastal erosion in the vicinity of the property at issue and the potential for impacts on or elimination of public access to said property due to coastal erosion. Pursuant to said Release and the issuance of a permit, the applicant shall understand and be advised that the proposed construction/reconstruction site at or within 300 feet of the Shorefront Land may be subject to extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence and said Owner shall assume full and sole risk for such hazards, including any restrictions on public access to said property. As such, the Owner shall unconditionally waive any present, future, and unforeseen causes of action and claims of liability on the part of the Town arising from the aforementioned or other natural hazards and relating to said permit approval and resultant construction, as a condition of approval. Further, the Owner shall agree to indemnify and hold harmless the Town and its departments, boards, officials and employees for any acts or omissions and related cost of defense, including, but not limited to, claims related to impacts on or reductions in public access to said property, arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner, Owner's successor-in-interest and/or third parties.

D. Issuance of permits. Upon receiving the application, the Building Inspector shall examine the same within a reasonable time after filing. The Zoning Enforcement Officer shall provide the Building Commissioner with a certificate of

compliance with this chapter. If the application does not conform to the provisions of all pertinent local laws, the Building Commissioner shall reject such application in writing, stating the reasons therefore, within 30 days of the submission of a complete application.

(1) He shall inform the applicant of his right of appeal to the Board of Appeals in the event such application is rejected.

(2) If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all laws and ordinances applicable thereto, he shall issue a building or use permit thereto, within 30 days of the submission of a complete application.

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H. Temporary permit. A temporary permit may, upon written request of an applicant, be authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years. Applicants for a temporary permit to engage in construction on Shorefront Land or within 300 feet of Shorefront Land shall be required to, in exchange for the issuance of a temporary building permit, execute a release, hold harmless and indemnification agreement ("Release") relative to said permitting and the potential for coastal erosion or impacts on or elimination of public access to the property at issue.

I. Payment of fees. No building or use permit shall be issued until the fees prescribed by the Board of Selectmen shall be paid to the Building Inspector.

J. Compliance with permit. All work or uses shall conform to the approved application for which the permit has been issued as well as the approved plot plan.

K. Disclaimer of Liability. This Bylaw shall not create any liability on the part of the Town, its departments, boards, officials and employees for any extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence damage that results from reliance on this Bylaw or any administrative decision made lawfully thereunder.



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Date Form Completed: 11/30/19	Date Rec'd by Town Admin:
Article Title: Coastal Erosion Liability Waiver Article	
Sponsor Name: Rick Atherton	Email: rickatherton@comcast.net

1	<i>At a summary level, what is the proposed purpose and objective of this Warrant Article?</i>
Response	The purpose of this article is to protect the Town from financial liability due to climate change and its impacts on sea level rise and coastal erosion. With the passage of time, protecting the Town from financial liability due to climate change and sea level rise becomes only more important. The impact is prospective, and the sooner action is taken, the sooner protection will begin. It is simply a matter of property owners accepting personal responsibility for the choices they make.
2	<i>Does the community-at-large gain value through the article? If so, how?</i>
Response	The community gains value through this article because it requires the owners of shoreline property to accept personal responsibility for possible risks caused by coastal erosion in a time of climate change and sea level rise. If adopted, the article would prevent private property owners from being able to threaten the Town (and the taxpayers) with being liable for financial costs associated with possible erosion of private property.

3	<i>Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.</i>
Response	Yes. See the pages of Shoreline Setback Ordinances on the Shoreline Setback page of the Kauai (Hawaii) County Planning Department web site: https://www.kauai.gov/Government/Departments-Agencies/Planning-Department/Shoreline-Setback . Here is the salient language related to liability waivers: “The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kauai harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures or activities from any coastal natural hazard and coastal erosion.” There are many more such regulatory initiatives in communities subject to coastal erosion.
4	<i>What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (Example: personnel costs, maintenance, equipment, supplies, etc.); and, what would be the proposed funding source?</i>
Response	There will be some administrative cost to develop forms and a procedure to be sure that building permits are issued only in conformance with the by-law. If legal review costs are not covered by the Town’s retainer, there could be charges billed by Town Counsel. Over time, the Town will save resources by avoiding suits and claims. It would only take one successful liability claim (if this article is not adopted) to cost the Town well in excess of any costs associated with the adoption of this article.
5	<i>Who do you envision executing the outcome of the article? (Will it require a new position; how would it fit in with a particular department; who would enforce it; who would be in charge of implementing it)? Have efforts have been made to involve the necessary participants as to the impacts of executing the article?</i>
Response	See #4 above, as well as this response in more detail. The cost to implement this article by the Building Inspector would be minimal. The additional time to verify applicability to specific properties should be no less burdensome than many other regulations added to the Code of Nantucket, such as the requirements of the Massachusetts building stretch code.

6	<i>Is the topic of the article contained within any Town Plan (i.e., Master Plan, Transportation Plan, Capital Improvement Plan, Strategic Plan)?</i>
Response	While perhaps not directly related to other Town plans, the general topic of SUSTAINABILITY and several other sections of developing resiliency planning should contain methods to deal with the impacts of climate change. More specifically, the Municipal Vulnerability Plan, the Coastal Management Plan (for Town-owned property), and the Coastal Resiliency Plan (under development) should address the topic of this article which is, simply put: In a time of climate change and rising sea level, who should bear the risk of financial liability of coastal erosion and inundation? The individual property owners or the taxpayers?

ARTICLE ---

(Zoning Bylaw Amendment: Article V, Section 139-26, Issuance of Building and Use Permits)

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[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]

(1) Demolition delay.

[Added 4-14-1997 ATM by Art. 40, AG approval 8-5-1997]

(a) Statement of purpose. The purpose of this section is to establish a predictable process for reviewing requests to demolish residential structures in order to:

- [1] Establish an appropriate waiting period during which the Town and the applicant can propose and consider alternatives to the demolition of a building of residential value;
- [2] Minimize the quantity of demolition debris ending up in the landfill;
- [3] Create an incentive for reuse of residential structures;
- [4] Give interested parties an opportunity to acquire reusable residential structures.

(b) Buildings subject to demolition delay. All residential structures are subject to review by the Building Commissioner for the purpose of determining whether such buildings have any residential reuse potential.

(c) Issuance of demolition permit. The requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. No demolition permit shall be issued for a building that is subject to review, pursuant to Subsection A(1)(b) above, unless:

[1] It is determined that demolition is necessary, pursuant to Subsection (A)(1)(d) below.

[2] It is determined that said building has no residential reuse potential due to the existing condition of the structure or physical barriers to moving the structure such as significant trees, bridges, etc.

[3] The demolition delay period set forth in Subsection A(1)(f) below has expired.

(d) Required demolition or repair.

[1] Demolition. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to order the building owner, or Town, to demolish a building at any time if it is determined that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.

[2] Repair. Nothing in this section shall restrict any authority in the general laws for the Building Commissioner or Building Inspector to require the applicant to take reasonable action to prevent the need for required demolition of a significant building, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.

(e) Issuance of building, use, or occupancy permit.

[1] If it has been determined that a building is subject to review, pursuant to Subsection A(1)(b) above, no building permits shall be issued for the erection of a new building on the site of such building subject to review before issuing a demolition permit for such building subject to review in compliance with this section.

[2] If it has been determined that a building subject to review has been voluntarily demolished in violation of this section, no building permits shall be issued for new construction, or any use or occupancy permit for any use other than a park or recreational open space, with respect to the premises of such building for a period of two years after the date of the determination. As used herein, "premises" includes the parcel of land upon which the demolished building was located and all abutting parcels under common ownership or control.

[3] The applicant (or the owner of record, if different from the applicant) shall be responsible for properly securing the building during the time that it is subject to

review under this section. If a building is subject to demolition delay, pursuant to Subsection A(1)(b) above, and the applicant fails to secure the building, the loss of the building to fire or other causes shall be considered voluntary demolition for the purposes of this section.

[4] The issuance of a building permit for the construction of any new dwelling unit on Shorefront Land or within _____ feet of Shorefront Land shall be required to, in exchange for the issuance of the building permit required by this Section, execute a release, hold harmless and indemnification agreement (“Release”) relative to said permitting and the potential for coastal erosion and impacts on or elimination of public access to the property at issue. Said Release shall be maintained by the Building Commissioner. A Release shall not be required for any renovations or repairs to structures existing prior to the effective date of this Section.

(f) Procedure.

[1] An application for review pursuant to this section shall be made to the Building Commissioner in the manner provided in this Subsection A(1)(f). If the applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.

[2] The applicant (or building owner) is encouraged to apply for review under this section as early as possible, so that any necessary review, and any delay period required by this section, may be completed prior to, or during, any other review to which the building or its site may be subject.

[3] Application for review under this section shall be made in connection with an application for a demolition permit.

[4] After its receipt of an application, pursuant to this Subsection A(1)(f), the following determinations shall be made:

[a] Whether immediate demolition is required pursuant to Subsection A(1)(D);
and

[b] Whether said structure has any residential reuse potential pursuant to Subsection A(1)(c)[2].

[5] A notice of determination shall be issued within 20 days after the application filing date. If it is determined that the structure does not require immediate demolition and that it does have reuse potential the applicant shall place a public notice in a local newspaper.

[a] Contents of public notice.

INVITATION FOR LETTERS OF INTEREST REGARDING AVAILABILITY OF HOUSE WHICH MUST BE MOVED FROM CURRENT LOCATION A house at (street address), scheduled for demolition, is being made available to any interested parties subject to the owner's conditions. The Building Commissioner is accepting Letters of Interest for 30 days from the date of this publication. All

interested parties should submit a letter of interest to the Building Commissioner. The house must be moved within 60 days of this publication.

[6] A published copy of said notice shall be presented to the Building Department. From the date of publication of said notice, any interested parties shall have 30 days to respond in writing to the Building Commissioner. If any bona fide letters of interest, as determined by the Building Commissioner or Building Inspector, are received within the thirty-day period no demolition permit shall be issued for a period of 30 days thereafter.

[7] If no bona fide letters of interest are received within the thirty-day period, a demolition permit may be issued.

(2) Any applicant seeking a building permit pursuant to the terms of this Section for the construction of any new dwelling unit on Shorefront Land or property within _____ feet of Shorefront Land shall be required to, in consideration for the issuance of the building permit required by this Section, execute a Release, as specified in this Section, acknowledging the potential for coastal erosion in the vicinity of the property at issue and the potential for impacts on or elimination of public access to said property due to coastal erosion. A Release shall not be required for any renovations or repairs to structures existing prior to the effective date of this Section.

Pursuant to said Release and the issuance of a permit for construction of a new dwelling unit, the applicant shall understand and be advised that the proposed new dwelling unit site at or within _____ feet of the Shorefront Land may be subject to extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence and said Owner shall assume full and sole risk for such hazards, including any restrictions on public access to said property. As such, the Owner shall unconditionally waive any present, future, and unforeseen causes of action and claims of liability on the part of the Town arising from the aforementioned or other natural hazards and relating to said permit approval and resultant construction, as a condition of approval. Further, the Owner shall agree to indemnify and hold harmless the Town and its departments, boards, officials and employees for any acts or omissions and related cost of defense, including, but not limited to, claims related to impacts on or reductions in public access to said property, arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner, Owner's successor-in-interest and/or third parties.

B. Form of application. The application for a building or use permit shall be submitted in such form as shall be described by the Building Inspector and shall be accompanied by the required fee as hereinafter prescribed. Application for a permit shall be made by the owner or lessee of any building or structure or the agent of either. The application for the permit shall be accompanied by a plot plan of the proposed building, structure or use drawn to scale with sufficient clarity to show the nature and character of the work to be performed, including off-street parking and loading space, if required, the location of new and existing lot lines.

C. Accompanying documents. The application for a building or use permit shall be accompanied by the following documents, if applicable:

(1) Certificate of appropriateness issued by the Nantucket Historic Districts Commission pursuant to Ch. 395, Acts of 1970, as amended.

(2) Sewer permit.

(a) For on-site septic systems issued by the Nantucket Board of Health pursuant to Title V, § 3.7, of the State Environmental Code.

(b) For hook-ups to the public sewage system issued by the Superintendent of the Nantucket Department of Public Works pursuant to the Wastewater Systems Regulations Governing the Use of Common Sewers, of the Town and County of Nantucket, as amended.

(3) Order of conditions issued by the Nantucket Conservation Commission, pursuant to the State Wetland Protection Act (MGL c. 131, § 40), when a determination has been made that all or a portion of the property included in the building permit application is subject to the Wetland Protection Act. It is the responsibility of the applicant to file a request to determine applicability of the Wetland Protection Act if the applicant suspects that all or a portion of his property may be subject to the Act.

(4) Water well completion report establishing availability of water on property, if public water supply is unavailable.

(5) Certified copy of each Board of Appeals and Planning Board decision, including minor and major site plan review approvals, and of the plan approved by the Planning Board if the building permit is for a secondary dwelling, whichever may be relevant to the proposed project.

[Amended 4-14-1997 ATM by Art. 49, AG approval 8-5-1997]

D. Issuance of permits. Upon receiving the application, the Building Inspector shall examine the same within a reasonable time after filing. The Zoning Enforcement Officer shall provide the Building Commissioner with a certificate of compliance with this chapter. If the application does not conform to the provisions of all pertinent local laws, the Building Commissioner shall reject such application in writing, stating the reasons therefor, within 30 days of the submission of a complete application.

[Amended 4-10-2000 ATM by Art. 46, AG approval 8-2-2000]

(1) He shall inform the applicant of his right of appeal to the Board of Appeals in the event such application is rejected.

(2) If satisfied that the proposed work and/or use conforms to the provisions of this chapter and all laws and ordinances applicable thereto, he shall issue a building or use permit thereto, within 30 days of the submission of a complete application.

(3) Prior to the issuance of a permit for new dwelling unit on Shorefront Land or within _____ feet of Shorefront Land, the Owner of said property, shall be required to, in

exchange for the issuance of the building permit execute the Release, as specified in this Section. Said Release shall be maintained by the Building Commissioner.

E. Any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months after its issuance; however, for cause, one or more extensions of time, for periods not exceeding six months each, may be granted in writing by the Inspector of Buildings. Work under such permit, in the opinion of the Inspector of Buildings, must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances.

F. Revocation of permits. The Building Inspector may revoke any permit issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application on which the permit was based or for any other cause set forth in this chapter.

G. Posting of permit. A true copy of a permit placard issued to the applicant with the permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work or use and until the completion of the same as defined on the application.

H. Temporary permit. A temporary permit may, upon written request of an applicant, be authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years.

I. Payment of fees. No building or use permit shall be issued until the fees prescribed by the Board of Selectmen shall be paid to the Building Inspector.

J. Compliance with permit. All work or uses shall conform to the approved application for which the permit has been issued as well as the approved plot plan.

K. Disclaimer of Liability. This Bylaw shall not create any liability on the part of the Town, its departments, boards, officials and employees for any extraordinary hazards and damage from waves during storms, erosion, retreat, settlement, sinking, or subsidence damage that results from reliance on this Bylaw or any administrative decision made lawfully thereunder.