TOWN OF CHILMARK, MASSACHUSETTS

401 MIDDLE ROAD
POST OFFICE BOX 119
CHILMARK, MA 02535
508.645.2107
508.645.2110 FAX
jchristy@chilmarkma.gov

Jennifer L. Christy
Planning Board Administrative Assistant

To: Honorable Board of Selectmen
From: Chilmark Planning Board
Date: January 6, 2015
Re: Accessory Apartment Zoning Bylaw Amendment

Selectmen:

On Monday, December 22, 2014, the Planning Board voted to recommend the Accessory Apartment Zoning Bylaw Amendment be presented to the Town's voters as an article in the warrant for the Annual Town Meeting on April 27, 2015. A copy of the Accessory Apartment bylaw amendments were sent to you on December 29, 2014.

However, in order for the amendments to appear in the correct places within the Zoning Bylaws, a revised version of the amendments showing the correct organization will be reviewed and approved at the Planning Board's meeting on January 12, 2015. Please find, enclosed, the revised Accessory Apartment bylaw amendments.

Thank you,

Jennifer L. Christy,
Chilmark Planning Board
Administrative Asst.

ACCESSORY APARTMENT ZONING BYLAW AMENDMENTS

January 6, 2015

Article 2: DEFINITIONS

Accessory Apartment
Section 2.25

An "Accessory Apartment" is a separate living area (attached to or detached from the principal dwelling) which is equipped with a kitchen, a bathroom and a separate entrance and is intended for accessory use to a single-family dwelling, on any sized lot.

Article 2: DEFINITIONS

Caregiver
Section 2.26

A "Caregiver" is an adult who regularly looks after an elderly, chronically sick or disabled person who requires such assistance.

Article 4: USE REGULATIONS

USES WHICH MAY BE SPECIALLY PERMITTED BY THE BOARD OF APPEALS
Section 4.2

9. Accessory Apartments– See Section 6.12.

Article 6: DIMENSIONAL AND DENSITY REQUIREMENTS

USES WHICH MAY BE SPECIALLY PERMITTED BY THE BOARD OF APPEALS
Section 4.2

6.12 EXCEPTION FOR ACCESSORY APARTMENTS – PRIVATELY OWNED PROPERTIES

A. **Purpose**

This section is intended (a) to help provide affordable year-round rental housing opportunities within the context of Chilmark's predominantly single-family home character (and to give homeowners an opportunity for supplemental income), and (b) to provide housing for an owner's immediate family members (i.e., children, grandchildren, parents, in-laws) and Caregivers.

One Accessory Apartment (pre-existing or to be constructed) may be allowed by Special Permit and with approval of the Board of Health, subject to compliance with all these Bylaws and to the following conditions:

1. Specially Permitted Use: An Accessory Apartment must be either (a) rented as affordable housing (as further set forth herein) or (b) rented or provided free of charge to immediate family members or Caregivers (as further set forth herein). No other occupancy is permitted.

2. Requirements for Affordable Housing Apartments:

   a. The principal dwelling and the Accessory Apartment must be owned by the same party.

   b. The owner of the property need not be a year-round resident of Chilmark.

   c. The Accessory Apartment must be rented on a year-round basis to persons eligible to rent affordable housing as determined by the DCHRA following basic income certification.

   d. The maximum rental rate shall be established annually by the Federal Department of Housing & Urban Development (HUD) and administered by the Dukes County Regional Housing Authority (DCRHA) which will also administer the Accessory Apartment program for those apartments used as affordable housing.

3. Requirements for Immediate Family Member/Caregiver Apartments:

   a. The principal dwelling and the Accessory Apartment must be owned by the same party.

   b. The owner of the property must be a year-round resident of Chilmark and must occupy either the principal dwelling or the Accessory Apartment (with the exception of seasonal Caregivers as set forth in 3.e below).

   c. The Accessory Apartment must be rented or occupied on a year-round basis (with the exception of seasonal Caregivers as set forth in 3.e below).

   d. There is no minimum or maximum rental rate.

   e. Notwithstanding 3.b and 3.c above (regarding the year-round residency requirement of the property owner and the year-round occupancy requirement of the Acccessory Apartment), if the owner of the property is not a year-round resident of Chilmark and the Special Permit specifically so provides, the Accessory Apartment may be rented or provided free of charge on less than a year-round basis for an owner's Caregiver while the owner is in residence on the property.

4. Size Restriction: Accessory Apartments (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) shall not exceed 800 square feet (or, if a Guest House would not be permissible on such lot, such Accessory Apartment shall not exceed 400 square feet).

5. Conversion of Accessory Apartment to Guest House (Accessory Apartment is more than 400 sq.ft.): Any Special Permit for a detached Accessory Apartment (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) of more than 400 square feet shall specify that such Accessory Apartment may not be used other than as affordable rental housing (in accordance with the requirements of the DCHRA) or by an owner's Caregiver or immediate family members unless and until such Accessory Apartment is formally approved by the Town as a permissible Guest House pursuant to these Bylaws (including, without limitation, the 5 year waiting period requirement for a Guest House).

6. Conversion of Accessory Apartment to Detached Bedroom or Guest House (Accessory Apartment is 400 sq. ft. or less): Any Special Permit for a detached Accessory Apartment (including an Accessory Apartment within an otherwise non-habitable structure such as a garage or barn) of 400 square feet or less shall specify that such Accessory Apartment may not be used other than as affordable rental housing (in accordance with the requirements of the DCHRA) or by an owner's Caregiver or immediate family members until either (i) the kitchen is removed and such structure qualifies as a Detached Bedroom or (ii) the structure is formally approved by the Town as a permissible Guest House pursuant to these Bylaws (including, without limitation, the 5 year waiting period requirement for a Guest House).

7. Both Guest House & Accessory Apartment Permissible: For the avoidance of doubt and subject to the other provisions of these Bylaws, an owner of a property shall not be precluded from having both an Accessory Apartment and a Guest House. No property may have more than one Guest House.

B. **Filing Requirements**

To ensure compliance with the requirements of this Section 6.12, the owner of an Accessory Apartment shall file the following with the DCHRA or the Town Clerk as noted below, and the Chilmark Housing Committee shall be authorized to administer these provisions:

1. All Accessory Apartments: Prior to the issuance of an occupancy permit for the Accessory Apartment and within 30 days of any change in ownership of the premises, the owner of the Accessory Apartment must file with the Town Clerk an affidavit attesting to the owner's understanding of the occupancy restrictions of this Bylaw and the owner's intention to comply with its requirements.
2. Affordable Housing Apartments: On or before January 31 of each year, the owner of the Accessory Apartment must file with the DCHRA the names of lessees of the Accessory

Apartment who are year-round residents of Martha's Vineyard, together with copies of the year-round lease and the lessee's driver's license or other appropriate proof of island residency. Any such lease shall clearly state that year-round occupancy of the Accessory Apartment is a condition of the lease.

3. Immediate Family Member/Caregiver Apartments: With respect to Accessory Apartments rented to or occupied by immediate family members and Caregivers as permitted hereunder: On or before January 31 of each year, the owner of the Accessory Apartment shall provide the Town Clerk with the names of year-round lessees or occupants of the Accessory Apartment who are immediate family members of the owner (children, grandchildren, parents or in-laws) or Caregivers for the owner or the owner's family.

C. **Enforcement**

The Chilmark Building Inspector is authorized to enforce the provisions of this Bylaw.

D. **5-Year Review**

There shall be a joint Zoning Board of Appeals, Planning Board and Chilmark Housing Committee meeting every 5 years to review the effectiveness of this Bylaw. These committees shall report to the next town meeting their findings and recommendations. The first such review meeting shall be scheduled no later than one month in advance of the town meeting 5 years after this Bylaw's adoption.