

## Article 6: DIMENSIONAL AND DENSITY REQUIREMENTS

### MINIMUM LOT SIZE AND SETBACKS

#### Section 6.0

- A. Each dwelling or structure (other than a barn or silo) and its permitted accessory structure or uses hereafter erected or placed upon a lot in Agricultural-Residential District I or in Agricultural-Residential Districts II-A or II-B shall have a minimum area of land of three (3) acres dedicated thereto and each such dwelling or structure together with all permitted uses and accessory uses in connection therewith shall be set back a minimum of 50 feet from each boundary line of said lot.
- B. Each dwelling or structure (other than a barn or silo) and its permitted accessory structures or uses, hereafter erected or placed upon a lot in the Agricultural-Residential District III shall have a minimum area of land of three (3) acres dedicated thereto and each such dwelling or structure together with all permitted uses and accessory uses in connection therewith shall be set back a minimum of 50 feet from each boundary line of said lot.
- C. Each dwelling or structure (other than a barn or silo) and its permitted accessory structures or uses, hereafter erected or placed upon a lot in Agricultural-Residential District IV shall have a minimum area of land of one and one half (1.5) acres dedicated thereto and each such dwelling or structure together with all permitted uses and accessory uses in connection therewith shall be set back a minimum of 25 feet from each boundary of said lot.
- D. Each dwelling or structure (other than a barn or silo) and its permitted accessory structures or uses hereafter erected or placed upon a lot in Agricultural-Residential District V shall have a minimum area of land of two (2) acres dedicated thereto and each such dwelling or structure together with all permitted uses and accessory uses in connection therewith shall be set back a minimum of 35 feet from each boundary line of said lot.
- E. Each dwelling or structure (other than a barn or silo) and its permitted accessory structures or uses hereafter erected or placed upon a lot in Agricultural-Residential District VI shall have a minimum area of land of three (3) acres dedicated thereto and each such dwelling or structure together with all permitted uses and accessory uses in connection therewith shall be set back a minimum of 50 feet from each boundary line of said lot.

#### Section 6.1

- A. Excepting that pre-existing lots of one and one half (1.5) acres or less in any zoning district shall have minimum setbacks of twenty-five (25) feet.

- B. Excepting that pre-existing lots of more than one and one half (1.5) acres but less than 3 acres in any zoning district shall have a minimum setback of 35 feet.

**HEIGHT LIMITATIONS**

**Section 6.2**

No building or structure shall be erected in any district of the Town after the effective date of this Zoning Bylaw, having a shed roof or a flat roof, or a curved or rounded roof exceeding a maximum height of thirteen (13) feet, or having the ridge of a gabled or hip roof exceeding a maximum height of twenty-four (24) feet. This limitation shall not apply to barns or silos not built for human occupancy or to curved or rounded or "eye-brow" dormers.

**Section 6.3**

The Board of Appeals may, after notice and public hearing, grant a special permit to allow the height of a dwelling with a gabled or hip roof to be increased to a maximum of 28 feet, if it finds that:

1. the increased height is necessary to produce the architectural dimensions and form of a dwelling built in Chilmark before 1850,
2. the proposed dwelling is so located that surrounding trees, hills or other landscape elements are of an average height at least equal to the height of the proposed dwelling, and
3. the proposed dwelling will not interfere substantially with the continuity of any views of water or of skylines.

**EXCEPTION TO MINIMUM LOT SIZE REGULATION**

**Section 6.4**

For the purpose of helping young people who have grown up in Chilmark and lived here for a substantial portion of their lives and who, because of the rising land prices, have been unable to obtain suitable land for their permanent home at a reasonable price, and who desire to continue to live in Chilmark, the Board of Appeals may grant a special permit to build a one-family dwelling for owner occupancy upon a lot having an area less than the minimum lot size prescribed by this bylaw for the district in which such lot is located, if the Board finds that placing of a one-family dwelling on such lot will not have a material, detrimental effect upon, or be inconsistent with, the established and future character of the neighborhood and the Town, and the applicant for the special permit covenants, in a form satisfactory to the Board, not to sell or otherwise transfer the ownership or lease, except for summer occupancy, such lot for a period of ten years, except for cases of hardship as approved by the Board of Appeals. Not more than one such permit shall be issued for a lot held in common ownership with other lots containing a total acreage of less than 36 acres on the effective date of this section and not more than two such permits shall be issued for lots held in

common ownership with other lots containing more than 36 acres on the effective date of this section.

**Section 6.5**

The Planning Board shall approve or endorse a definitive subdivision plan covering only such a lot or lots provided that the requirements of the subdivision control law are otherwise met and the Board of Appeals has granted a special permit pursuant to this section for such lot or lots.

For the purposes of this section "young people" shall be deemed to be persons who have not attained their thirtieth birthday and who have been residents of the Town of Chilmark for eight consecutive years.

**Section 6.6**

The Board of Appeals may, after a public hearing, grant a special permit to build or place a one-family dwelling, or a structure, at a location on a lot which is set back less than the minimum distance, as required by this Article, from any lot line, if the owners of the lots whose property is within 100 feet of the proposed construction consent thereto in writing.

**FLEXIBLE SITING**

**Section 6.7**

The Planning Board may, after consultation with the Board of Health and the Board of Appeals, grant a special permit to build or place a one-family dwelling, for owner occupancy, upon a lot located in a subdivision having an area less than the minimum lot size and setback limitations as prescribed by this section for the district in which the lot is located, if in the opinion of the Board such use is necessary for the protection of agricultural land or dry woodlands, is consistent with the preservation and enhancement of existing large trees, large exposed boulders, water courses, hills and other natural features as well as vistas, water views and historic locations and will not have a material detrimental effect upon, or be inconsistent with the established and future character of the neighborhood and the Town; provided that an area of open space which equals or exceeds the area by which any lots in the subdivision are reduced below the minimum lots size prescribed by this section for the district in which such lots are located is conveyed to the Town or conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or conveyed to a corporation or trust owned or to be owned by the owners of the lots within the subdivision. A restriction in perpetuity against such conveyed area, enforceable by the Town or the Planning Board, providing that such area shall be dedicated to and kept for agricultural or dry woodland purposes or for recreational uses which do not disturb the natural condition of the land, shall be recorded in the registry of deeds. In no event shall the density ( number of dwelling units per minimum lot size in each subdivision) of the subdivision be greater than the density allowed for such

subdivision if no special permit as provided herein had been granted. Such special permit shall specify the location on the lot of such dwelling.

## **REQUIREMENTS FOR ROAD FRONTAGE AND LOT WIDTHS**

### **Section 6.8**

- A. The minimum frontage on a public or private road providing access to a lot shall not be less than 100 feet.
- B. Frontage shall be measured along a straight line connecting points of intersection of the side lot lines with the road boundary on which the lot is located.
- C. Divisions of land allowed under Section 6.7 of the Zoning Bylaw, Exception to Minimum Lot Size, may have a minimum road frontage of 40 feet.
- D. With the exception of paragraph C above, the distance between side lines of a lot shall be no less than 100 feet at all points between those lines.

## **HOMESITE HOUSING**

### **Section 6.9**

#### **A. PURPOSE**

The Town of Chilmark values being a diverse community that accommodates residents of varying income levels. As the cost of the land and housing increases on Martha's Vineyard many local residents are being priced out of the market for homes. The Town of Chilmark desires to enhance the availability of housing that is affordable to the entire range of its residents, without encouraging excessive growth that detracts from the Town's quality of life. Furthermore, the Town of Chilmark desires to sustain said housing as affordable for future generations of Chilmark residents. Therefore, the Town establishes this section to allow the construction of individual residences on lots that do not satisfy minimum lot size requirements, provided:

- 1. that the owner-applicant:
  - a. meets the qualifications of the Chilmark Housing Committee under the Homesite Housing Implementation Guidelines in effect at the time of filing of the necessary Special Permit Application;
  - b. is granted a Special Permit from the Zoning Board of Appeals to build a one-family dwelling for owner occupancy upon a Homesite Housing Lot as prescribed in this bylaw; and

- c. attaches to the property deed, before the issuance of a building permit, the Homesite Housing long-term affordability Deed Restriction for the purpose of maintaining the property in a permanently affordable pool; and
2. that the lot otherwise meets the requirements of the subdivision control law and the Planning Board.

## B. DEFINITIONS

1. Homesite Housing: Housing for persons who live or work in Chilmark whose total household adjusted gross income is not more than 150% of median income for Dukes County.
2. Eligible Purchaser: Any private purchaser over the age of 18 who meets the Homesite Housing Implementation Guidelines in effect at the time of purchase.
3. Homesite Housing Lot: A parcel of land which
  - a. may be less than three (3) acres in size but not less than one (1) acre and has the approval of the Planning Board as a Homesite Housing Lot;
  - b. satisfies all other Town zoning and conservation requirements in effect at the time of application;
  - c. is fully compliant with the Town Board of Health rules and regulations in effect at the time of application; and
  - d. is available for
    - i. purchase only to Eligible Purchasers as defined above, or
    - ii. lease only to Eligible Purchasers as defined above, in the case where the land is held by a municipal or state agency, or by a non-profit entity dedicated to developing affordable housing.
4. Long-term Deed Restrictions: Legal covenants which guarantee, by capping the resale price of the property (including improvements), that, in the event of a resale, the property remains affordable to other Eligible Purchasers. Said restrictions shall run for the maximum term permitted by law and shall be enforceable by the Town.

## C. HOMESITE HOUSING LOTS

1. Creation of Homesite Housing Lots. A Homesite Housing Lot may be created by:
  - a. the Town from land owned by or donated to the municipality.
  - b. a property owner of a lot which does not satisfy minimum lot size requirements of the zoning bylaw and is not protected as a non-conforming lot.

- c. a property owner from a lot created by a Planning Board approved subdivision of a larger lot containing more than the minimum acreage required by town zoning, provided that the proposed Homesite Housing lot or lots conform to all conditions in Section 6.9 B.(3), and the remaining lot meets minimum lot size requirements.

2. Distribution of Homesite Housing Lots.

- a. Homesite Housing Lots created by the Town shall be awarded by lottery, limited to Eligible Purchasers as defined above. Such lottery shall be held at a public meeting of the Board of Selectmen.
- b. Homesite Housing Lots created by a property owner shall be limited to Eligible Purchasers as defined above. Selection of the purchaser shall, at the option of the property owner, be made by the property owner or by lottery to be held at a public meeting of the Board of Selectmen.
- c. Homesite Housing Lots may be sold or donated to a non-profit organization, which organization may hold the lot for resale without profit. Any such sale may only be made to an Eligible Purchaser selected by lottery to be held at a public meeting of the Board of Selectmen.

3. Initial Conditions for Homesite Housing Lots.

- a. Cost of a Homesite Housing Lot: The maximum cost of Homesite Housing Lots (improved or unimproved) shall be established by the Housing Committee and set forth in the Homesite Housing Implementation Guidelines.
- b. Recipient of a Homesite Housing Lot: A Homesite Housing Lot may only be created for a recipient who is an Eligible Purchaser qualified under the Homesite Housing Implementation Guidelines of the Housing Committee.
- c. Special Permit from the Zoning Board of Appeals: The ZBA may approve a Special Permit for a substandard lot to be buildable as a Homesite Housing Lot provided that the following standards and criteria are met:
  - 1) The proposed lot has been approved as a potential Homesite Housing Lot by the Planning Board;
  - 2) The sale price of the Homesite Housing Lot has been established and posted;

- 3) The proposed lot satisfies all Town zoning and conservation requirements in effect at the time of application, with the exception of lot size;
- 4) The proposed lot is fully compliant with the Town Board of Health rules and regulations in effect at the time of application;
- 5) The proposed lot is available for purchase or lease only to an Eligible Purchaser as defined by the Homesite Housing Implementation Guidelines approved by the Housing Committee. Such eligibility shall be certified in writing by the Housing Committee;
- 6) The proposed lot shall be subject to terms and limitations in accordance with the long-term Deed Restrictions approved by the Housing Committee in effect at the time of award of the Lot; and
- 7) The proposed lot may be subject to additional conditions imposed by the Zoning Board of Appeals to assure that the provisions of this bylaw are met.

#### **D. USE, RESALE and TRANSFER of HOMESITE HOUSING LOTS**

Homesite Housing Lots shall be subject to Deed Restrictions, as set forth in a Deed Rider approved by the Housing Committee, which shall run for the maximum term permitted by law, shall be enforceable by the Town, and shall limit:

1. the Initial Cost of the land;
2. the time within which to secure a Building Permit;
3. the use of the property to one dwelling which shall be the owner's primary residence;
4. the maximum allowable rental time per year;
5. the rental conditions to those described in the Implementation Guidelines in effect at the time the rental of the Homesite Housing Lot;
6. the resale value to an affordable formula; and
7. the resale or transfer to Eligible Purchasers and Heirs.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any

section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town of Chilmark's zoning bylaw.

## **EXCEPTION FOR AFFORDABLE RENTAL HOUSING**

### **Section 6.10**

For the purpose of providing affordable rental housing in the Town of Chilmark on land owned by the Town or by a non-profit agency, land trust or other non-profit legal entity dedicated to affordable housing, the Town establishes this section as a limited exception to its zoning requirements. In order to come within this exception, all of the following conditions must be met.

#### **A. Conditions**

1. Rental units may be rented only to tenants who qualify for affordable housing under the guidelines for affordable rental housing established by the Chilmark Housing Committee and approved by the Board of Selectmen, or in the absence of such guidelines then by the guidelines established by the Dukes County Regional Housing Authority.
2. The number of rental units on a property shall not exceed two dwelling units for each three acres.
3. The property on which the rental units are located must be dedicated to use for affordable housing in perpetuity, subject only to release by action of the Board of Selectmen and the Planning Board.

#### **B. Rental Housing**

Subject to the foregoing conditions, rental housing is allowed in the Town of Chilmark for affordable housing purposes provided:

1. Rental structures shall be free standing single-family or multi-family structures not to exceed three-family.
2. No rental unit shall exceed 4 bedrooms. No two-family structure shall exceed a total of seven bedrooms and no three-family structure unit shall exceed a total of nine bedrooms.
3. Buildings may be clustered provided the remaining open space is not further developed, except for appropriate out-buildings.
4. All set back and height regulations shall apply. Road access to the property on which the rental units are located shall be adequate to provide for safe ingress and egress by emergency vehicles and shall meet the road requirements for Form C subdivisions under The Town of Chilmark's Rules and Regulations Governing Subdivision of Land.
5. Plans for design and siting of all buildings, parking areas, road access, and any other uses shall be subject to Planning Board review and public hearing prior to approval.

6. All requirements of the Board of Health and Conservation Commission shall apply.
7. Tenant selection shall be made by the Chilmark Housing Committee in accordance with guidelines established by the Chilmark Housing Committee and approved by the Board of Selectmen, except that vacancies in units located on Town owned land (limited to one such unit for each group of up to 12 units in any one development) may be filled by the Board of Selectmen from among essential Town employees who are otherwise qualified under Housing Committee Guidelines.
8. Housing intended for affordable rental under this section shall be exempt from rate of development and building cap regulations.