Article 7: RATE of DEVELOPMENT

Section 7.0

Building permits for the construction of dwellings on lots held in common ownership on the effective date of this provision shall not be granted at a rate per annum greater than as permitted by the following schedule commencing in the year such lots are subdivided or in the year this provision becomes effective, whichever is later:

A. For such lots containing a total area of land sufficient to provide more than ten dwellings at the maximum density permitted for the district in which such lots are located: one tenth of the number of dwellings permitted to be constructed or placed on said total area of land based on said maximum permitted density.

B. For such lots containing a total area of land insufficient to provide ten or more dwellings at the maximum density permitted under these bylaws for the district in which such lots are located: one dwelling.

C. Any lots in a subdivision covered by this provision hereafter sold or otherwise transferred to another owner shall include in the deed the earliest date on which construction may be commenced in accordance with these provisions.

D. For flexible siting (cluster) subdivisions the rate of development will be the normal rate as in A or B above plus one in the first year.

E. For subdivisions where the density is less than 75% of maximum density possible, including guest houses and there is a covenant against further subdivision except for the creating of Homesite Housing for Town-approved applicant(s), the rate of development will be the normal rate as in A or B above plus one in the first year.

F. For subdivisions where the developer limits the size of the dwellings to a maximum of 3,000 s.f., covenants against further subdivision except to provide Homesite Housing lot(s) for Town approved applicants, the rate of development will be the normal rate as in A or B above plus one in the first year.

G. In subdivisions which do not require the approval of the Martha's Vineyard Commission, where a Homesite Housing Lot(s) for a Town approved applicant (s) is (are) provided, the rate of development will include one extra lot the first two years.

H. Homesite Housing lots, and dwellings built specifically for affordable year-round rental for Town approved applicants are exempt from any building cap and rate of development restrictions.

BUILDING CAP

Section 7.1 The Planning Board has evaluated the effects of the three-year extension, commencing November 12, 2002, of the Building cap in effect in The Town of Chilmark, and has considered the Town's ongoing rate of growth and the impact of that growth on The Town's facilities, roads, natural resources and environment. Based on the continuing concern for these considerations for fulfilling the purpose of this bylaw, as recommended by the Planning Board, it is the conclusion of The Town that it is in the best interest of the community to continue to limit the rate of growth by extending the cap as delineated in this bylaw.
Accordingly, with the addition of Section 7.1.c.d., Section 7.1, beginning with Section 7.1.A., is hereby extended for a period of three years, commencing on November 12, 2005.

A. The purpose of this bylaw is as follows:

1. To promote the purposes set forth in Section 1.0 of the Zoning Bylaws of the Town of Chilmark;

2. To encourage the development of modest dwellings consistent with the historic and rural character of the Town; and

3. To allow the Town adequate time to analyze the existing and future location and rate of residential growth so as to enable comprehensive fiscal, governmental and land use planning and to propose bylaw changes designed to accommodate the rate of growth through preparation of a comprehensive plan.

B. Number of Building Permits Allowed per Year for Residential Construction:

For each of three years commencing on the first publication of notice of the Planning Board hearing, the Building Inspector shall issue no more than 18 permits per year for new residential construction; except that two additional permits may be allocated to qualified youth lot recipients. This limitation shall not apply to completed applications for building permits filed with the Building Inspector prior to the date of publication (November 12, 1999). Any permits less than eighteen not issued in a year shall not be available for issuance in any later year.

C. For the purposes of this Bylaw, the term "new residential construction" shall include the following:

1. A new dwelling or guest house (not including reconstruction or repair of a dwelling or guest house destroyed or damaged by fire or storm or other natural cause).

2. A conversion of a barn, garage or other accessory building to use as a dwelling.

3. Any "tear-down" renovation (which for the purposes of this paragraph is defined as a removal of 50% or more of the pre-existing dwelling and a rebuilding of the same or a modified or expanded residential building) except when all of the following conditions are met:

    a. More than twenty-five (25) percent of the original unit remains;

    b. More than one (1) primary exterior wall of the original unit remains;

    c. The number of bedrooms does not increase by more than one.

    d. The footprint of the house does not increase by more than 25% or 500 square feet, which ever is less.

D. Priorities for Issuance of Permits: Each year shall be divided into twelve (12) periods corresponding to the calendar months.

1. The number of permits which may be issued in any month shall equal the total allowed for the current year divided by 12, provided that a fraction shall be carried over and added to the next successive month.

2. Priority Points. Applications for building permits shall be entitled to priority points to be awarded as follows:

    a. Owners applying for a permit to build their primary residence - 5 points.

    b. New construction for a residence 2,000 square feet or under - 10 points; 2,001-3,000 square feet - 4 points. (In the case of guest house or conversion of a barn, garage or other accessory building, points shall be awarded on the basis of the total area of existing plus new construction.)

    c. Owners who have combined two (2) or more buildable lots to form the property for which the building permit is sought and have filed a conservation restriction prohibiting subdivision - 5 points for the first two (2) lots combined and 5 points for each additional contiguous buildable lot combined and so restricted.

    d. Owners of lots greater than 6 acres, who file an agreement to place buildable acreage under perpetual

restriction (i.e., give up development rights) - 5 points per potential buildable lot.

e. Primary residential dwelling unit for a first time homeowner - 5 points. The term "first time homeowner" shall be defined as a person or persons who have never owned their own home (including a condominium or cooperative apartment) regardless of location.

f. Any new primary residential unit to be built by the Dukes County Housing Authority or pursuant to the Martha's Vineyard Commission's Affordable Housing Action Plan in conjunction with an approved Development of Regional Impact or under any other program or proposal found in writing by the Planning Board to have the primary effect of providing permanent year-round affordable housing - 20 points.

g. Owners who agree, by an enforceable written agreement, to provide the Town with a Youth Lot or a Homesite Lot prior to the issuance of their occupancy permit - 10 points.

h. For each month an application is passed over - 2 points.

E. Issuance of Building Permits: Provided that an application meets all other requirements for the issuance of a building permit, permits shall be issued each month in the number allowed by this bylaw to the applicant(s) having the highest number of priority points. In the case of a tie, priority shall be determined by the order of date and time of filing of completed applications with the building inspector. For this purpose, the Building Inspector shall keep a chronological record of the date and time of filing of completed building permit applications.

At the end of each month, the Building Inspector's office will post the status of all applications, i.e., if not awarded, the number of priority points of each and its ranking as of the end of the month.

F. Transferability: Neither priority points nor an issued building permit shall be transferrable.

G. Review: This building cap process shall be subject to review every six (6) months.

H. Appeals: If an applicant for a building permit would suffer immediate and severe hardship, financial or otherwise, (provided that such hardship is not self-imposed), by reason of a delay in issuance of a building permit resulting from the terms of this bylaw, such applicant may appeal to the Planning Board for relief. The burden shall be upon the applicant to establish to the satisfaction of the Planning

Board that such immediate and severe hardship exists, in which event the Planning Board may allow the issuance of a building permit provided that the annual limit of eighteen (18) permits shall not be exceeded. Any such relief may not be granted if it is otherwise in conflict with the letter and intent of the Zoning Bylaw of the Town of Chilmark.