

## Proposed Zoning Amendment to the “Swimming Pool” Zoning Bylaw

**ARTICLE XX.** To see if the Town will vote to amend Section 4.2A(3) of the Zoning Bylaws, which governs swimming pools as accessory uses by special permit, by deleting the text identified in the body of this article with “strike-throughs” and by adding the text identified in the body of this article with “italics”. The proposed additions and deletions to this Section also include those additions and deletions approved by the Annual Town Meeting in 2019, which the Planning Board has determined are consistent with the Attorney General’s review of those amendments set out in correspondence to the Town Clerk dated October 4, 2019.

### **TWO-THIRDS MAJORITY REQUIRED**

#### **ACCESSORY USES**

**Section 4.2A.** Accessory uses as specified below which are customarily accessory and incidental to a permitted use, subject to the following provisions.

#### **3. Swimming Pool and/or Tennis Court.**

A swimming pool and a tennis court are considered accessory to the use of a principle dwelling. The Town ~~will follow the current approved MA Building Code on Swimming Pools 780 CMR and~~ will adhere to the following process:

a. **Permitting and Enforcement:** *Applicants are required to demonstrate compliance with all requirements set out in the International Swimming Pool and Spa Code, as adopted by and incorporated into the Massachusetts Building Code.* ~~In addition, A~~ Special Permit is required for a swimming pool or tennis court ~~from~~. ~~The Special Permit is issued by~~ the Zoning Board of Appeals ~~and is enforced by the Building Inspector, which, in its discretion, will determine whether the applicant/owner’s plan meets the purposes and requirements of this section.~~ *Special Permits granted under this section will be enforced by the Building Inspector.*

b. **Application:** The applicant/owner must own the principal dwelling for two (2) years before applying for a Special Permit for a swimming pool or tennis court. Principal dwelling ownership begins when an occupancy permit for the principal dwelling is issued by the Building Inspector or from the date of transfer of property with an existing ~~occupiable~~ *dwelling for which an occupancy permit has been granted.* Special Permits for new swimming pools and tennis courts may not be transferred to new owners.

c. **Use:** ~~Such~~ A swimming pool or tennis court *permitted under this Section may only be used only by the residents or tenants of the principal dwelling and their guests.*

d. **Setbacks:** No portion of the swimming pool or tennis court *or any related fencing or pool-related equipment* may be located within 50 feet of any boundary line of said lot. ~~Related equipment will be placed in a location approved by the Zoning Board of Appeals. Depending on the lot, the Zoning Board of Appeals may require a sound insulated shed or underground vault for pool related equipment.~~ *Setback relief may be available under Section 6.6.*

e. **Access and Enclosure:** ~~Swimming pool enclosures are required and must be in accordance with current MA Building Code 780 CMR 120.M. If a stone wall is used for fencing, it must meet MA State Building Code Guidelines for Solid Barrier Surfaces, 780 CMR 120.M 105 Barrier Requirements, Section 3. *As noted in Section 3(a), Applicants are required to demonstrate compliance with the barrier requirements set out in the International Swimming Pool and Spa Code, as adopted by and incorporated into the Massachusetts Building Code.*~~

f. **Location**~~**Line-of-Sight Observation:**~~ ~~The location of the swimming pool, related equipment or tennis court shall not materially impair the view of natural surroundings from a way used by the public, from public land or from abutting lots. For safety reasons, there must be a clear line of sight from the principal dwelling to the swimming pool, as determined by the Zoning Board of Appeals. A pool must be situated so as to provide a clear and direct line of sight to the entire pool area – not dependent upon by a closed circuit camera or other equipment enabling remote observation – from a highly used room or place, such as a kitchen, living room located within the principal dwelling or an area attached to the principal dwelling, such as a deck. The Zoning Board of Appeals may approve another room or place from which the line-of-sight is established. No portion of any swimming pool barrier, pool mechanicals, renewable energy infrastructure or vegetative screening may be installed so as to interfere with the required line-of-sight. Vegetative screening must be maintained to preserve the line of sight.~~

g. **Covers:** ~~All owners with swimming pools are encouraged to outfit their pools with covers to protect against accidental damage or injury to persons and property, particularly during the off-season or times when the owner or renter will not be present on the property. will be equipped with a winter safety cover for off-season use.~~

h. **Power Source for Heating**~~**Energy Use:**~~ ~~Heated swimming pools (including the heating system, pool related pumps, filters and circulators) are permitted if the heat is supplied by solar or *alternative other renewable* systems, which are the most efficient systems, as approved by the Zoning Board of Appeals. If a water heating system is added to an existing swimming pool, a Special Permit is required for the installation, *and the system must comply with this section.* If a swimming pool is heated, the heating system and associated pumps must be powered by electricity generated from an on-site renewable energy source, consistent with current best practices as determined by the Zoning Board of Appeals.~~

i. **Light:** ~~The swimming pool or tennis court must comply with sections~~Chilmark Zoning Bylaw Article 5, Section 5.5, 5.6 and 5.7 of these Zoning Bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts ~~must~~ may not be lighted.

j. **Noise:** ~~The swimming pool and related equipment or tennis court must comply with Chilmark Zoning Bylaw Article 5, Section 5.9. The Zoning Board of Appeals may require all pool-related mechanical equipment to be located in an enclosed, sound-insulated shed or in an underground vault to reduce noise. The location of such shed or vault must be approved by the Zoning Board of Appeals. Any such equipment which the Zoning Board of Appeals does not require to be so located must comply with the provisions of Article 5, Section 5.9 of these Zoning Bylaws.~~

**k. ~~Screening and Landscaping and Visibility:~~** ~~A screening plan shall consist of native, non-invasive species, provided they are consistent with Article 4.2A, sections 3.f and 3.j and must be perpetually maintained for the life of the pool. The purposes of this provision are (a) to allow vegetative screening provided it does not unreasonably interfere with an abutting property owner's enjoyment of their property and views from that property, and (b) to protect public vistas.~~

1) ~~A detailed landscaping plan may be required by the Zoning Board of Appeals and, if so, it must be approved prior to construction of the pool or tennis court. All vegetative screening, whether in a plan or not, must consist of native, non-invasive species. No portion of the swimming pool or tennis court, the pool/court barriers/enclosures, the pool mechanicals and any vegetative screening may be sited so as to interfere with the view of the natural surroundings from a way used by the public or from public land, as determined by the Zoning Board of Appeals. Vegetative screening must be planted at least 4 feet outside the pool barrier and maintained at a height not to exceed 4 feet.~~

2) ~~No portion of the swimming pool or tennis court or any related fencing or any pool-related mechanical equipment or vegetative screening may be sited so as to interfere with the view of natural surroundings from a way used by the public or public land.~~

**l. Fire Protection:** ~~A standpipe for Fire Department access is required for all pools containing over 10,000 gallons of water. The Fire Chief must also approve the standpipe design and placement before an applicant may obtain a building permit. An accessible and functional standpipe is required for pools containing more than 7500 gallons of water with the design, placement and operation to be approved by the Chilmark Fire Chief.~~

**m. Initial Filling:** ~~The initial filling of the pool shall come from an off-site source and shall not occur until the pool is in compliance with this Section.e. Enclosure and the pool area may be safely secured.~~

**n. Drainage:** ~~The concentration of potentially hazardous chemicals in the water must be significantly reduced and properly tested before any necessary draining of the pool water directly into the ground of the property. Pool water must not be drained into any 'buffer zone' (as that term is defined in the Wetlands Protection Act).~~

**o. Maintenance/Compliance with other Law.** ~~Swimming pools, barriers, pool-related mechanicals and covers must be maintained in good working order and in compliance with state building codes and these Zoning Bylaws.~~