



TOWN OF CHILMARK, MASSACHUSETTS

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townclerk@chilmarkma.gov

Jennifer L. Christy
Town Clerk

November 14, 2023

To whom it may concern:

Please see attached the amended Chilmark Zoning Bylaws. The Chilmark Zoning Bylaws were amended by vote at the April 24, 2023 Annual Town Meeting.

The amendments to the Chilmark Zoning Bylaws, appearing as Article 27 in the April 24, 2023 Annual Town Meeting warrant, were partially approved by the Massachusetts Attorney General on November 6, 2023.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within ninety (90) days of this date of approval by the Massachusetts Attorney General.

Copies of the Chilmark Zoning Bylaws, as approved by the Massachusetts Attorney General may be examined and obtained at the Chilmark Town Hall. Amended Chilmark Zoning Bylaws may also be viewed at www.chilmarkma.gov.



Jennifer L. Christy,
Chilmark Town Clerk



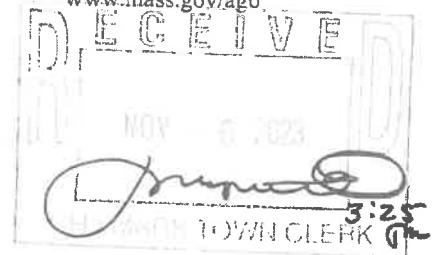
THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
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November 6, 2023



Jennifer L. Christy, Town Clerk
Town of Chilmark
P.O. Box 119
Chilmark, MA 02535

Re: **Chilmark Annual Town Meeting of April 24, 2023 -- Case # 10917**
Warrant Article # 27 (Zoning)

Dear Ms. Christy:

Article 27 - Under Article 27 the Town voted to amend its zoning by-laws by replacing the existing Section 4.2A (3), "Swimming Pool and/or Tennis Court" with new text. The by-law provides that swimming pools and tennis courts are accessory uses to the use of the principal dwelling and require a special permit. Section 4.2A (3) (a). The by-law imposes permitting, setback, access and enclosure requirements on swimming pools and tennis courts. Section 4.2A (3)(a)-(o).

We approve Article 27, except for certain text in (1) Section 4.2A (3) (f) regarding pool barriers, mechanicals and heating equipment; (2) Section 4.2A (3) (g) regarding swimming pool covers; and (3) Section 4.2A (3) (l) regarding withholding of a building permit. The disapproved text is preempted by the State Building Code, 780 CMR § 1.00, *et. seq.* and the 2015 edition of the International Pool and Spa Code ("ISPC"), which has been adopted into and made part of the State Building Code (collectively referred to as "Building Code"). See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law).

This decision briefly describes the by-law amendments; discusses the Attorney General's standard of review of zoning by-laws under G.L. c. 40, § 32 and general preemption principles; and then explains why, governed as we are by that standard, we partially approve Article 27.

I. Summary of Article 27

Under Article 27 the Town voted to amend the zoning by-laws by replacing Section 4.2A (3), "Swimming Pool and/or Tennis Court," with new text. Section 4.2A (3) regulates swimming pools and tennis courts as an accessory use to a principal dwelling. Swimming pools and tennis courts require a special permit. Section 4.2A (3) (a), "Permitting and Enforcement." As a

condition of the special permit, the applicant must have owned the principal dwelling for two years before installing a swimming pool or tennis court. Section 4.2A (3) (b), "Application." The by-law requires that the swimming pool or tennis court be used only by residents or tenants of the principal dwelling or their guests. Section 4.2A (3) (c), "Use." Section 4.2A (3) (d) imposes setback requirements for swimming pools and tennis courts. The by-law also imposes requirements for swimming pools related to access and enclosures, line of sight, covers, energy use, light, noise and landscaping. Section 4.2A (3) (e) through (k). The by-law requires a standpipe for fire department access when the swimming pool contains over 10,000 gallons of water. Section 4.2A (3) (l), "Fire Protection." Finally, the by-law imposes requirements related to the initial filling of a swimming pool, drainage and maintenance of a swimming pool. Sections 4.2A (3) (m) through (o).

II. Attorney General's Standard of Review of Zoning By-laws

Our review of Article 27 is governed by G.L. c. 40, § 32. Under G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom v. Worcester, 363 Mass. 136, 154 (1973). "

Article 27, as an amendment to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham. LLC, 440 Mass. 45, 57 (2003). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Certain Text is Preempted by the State Building Code

A. The State Building Code and Preemption

The Building Code was authorized by G.L. c. 143, § 93 wherein the Legislature abolished all local building codes, established the state Board of Building Regulations and Standards ("BBRS"), and charged the BBRS with adopting and regularly updating the Building Code. Id. § 94(a), (c), (h). The Building Code is codified at 780 CMR § 101.00 and applies to virtually all structures (with certain exceptions not applicable here). See 780 CMR § 101.2 (9th ed.) ("780 CMR shall be the building code for all towns, cities, state agencies or authorities, ...[and] shall

apply to the construction, reconstruction, ...installation of equipment...and use or occupancy of all buildings or structures...).

In determining whether a by-law is inconsistent with a state statute, the “question is not whether the Legislature intended to grant authority to municipalities to act...but rather whether the Legislature intended to deny [a municipality] the right to legislate on the subject [in question].” Wendell v. Attorney General, 394 Mass. 518, 524 (1985) “This intent can be either express or inferred.” St. George Greek Orthodox Cathedral of Western Massachusetts, Inc. v. Fire Dep’t of Springfield, 462 Mass. 120, 125-126 (2012). Local action is precluded in three instances, paralleling the three categories of federal preemption: (1) where the “Legislature has made an explicit indication of its intention in this respect”; (2) where “the State legislative purpose can[not] be achieved in the face of a local by-law on the same subject”; and (3) where “legislation on a subject is so comprehensive that an inference would be justified that the Legislature intended to preempt the field.” Wendell, 394 Mass. at 524. “The existence of legislation on a subject, however, is not necessarily a bar to the enactment of local ordinances and by-laws exercising powers or functions with respect to the same subject[, if] the State legislative purpose can be achieved in the face of a local ordinance or by-law on the same subject[.]” Bloom v. Worcester, 363 Mass. 136, 156 (1973); see Wendell, 394 Mass. at 527-28 (“It is not the comprehensiveness of legislation alone that makes local regulation inconsistent with a statute. . . . The question . . . is whether the local enactment will clearly frustrate a statutory purpose.”).

A town by-law that seeks to address a subject regulated by the Building Code is preempted where G.L. c. 143, § 95 directs the BBRs, in promulgating the Code, to pursue “uniform standards.” St. George, 462 Mass. at 120. The Legislature established the Building Code as the one state-wide building code and rejected the premise of each municipality having its own requirements. “In authorizing the development of the [C]ode, the Legislature has expressly stated its intention: to ensure ‘[u]niform standards and requirements for construction and construction materials.’” St. George, 462 Mass. at 126 (citing G.L. c. 143, § 95(c)). Based on this express legislative goal of uniformity, and the abolition of local by-law requirements, the St. George court found “the Legislature [had] demonstrate[d] its express intention to preempt local action.” Id. at 129.

During the course of our review of Article 27, we consulted with the BBRs, and they confirmed that certain provisions of the by-law that seek to regulate swimming pools conflict with, and are preempted by, the Building Code. As explained below, because certain portions of the by-law amendments conflict with and are preempted by the Building Code, we disapprove them.

B. Disapproved Text

1. *Section 4.2A (3) (f) – Line of Sight Observation*

Section 4.2A (3) (f) imposes line of sight observation requirements for swimming pools as follows, with emphasis added:

A pool must be situated so as to provide a clear and direct line of sight to the entire pool area (not dependent upon a closed circuit camera or other equipment enabling remote observation) from a highly used room or place within the principle 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, pool heating equipment or** vegetative screening may be installed so as to interfere with the required line-of-sight. Vegetative screening must be mainlined to preserve the line of sight.

We disapprove the text above in bold and underline that seeks to regulate the installation of a swimming pool barriers, mechanicals or heating equipment because this portion of the by-law is preempted by the Building Code. The Building Code regulates swimming pool barriers, pool mechanicals and heating equipment, including design and location requirements. See IPSC Subsections 304 (“Flood hazard areas”), 305 (“Barrier Requirements”), and 307 (“General Design”). Because the IPSC, through the Building Code, already regulates the design of pools and mandates locations and other requirements (such as height) of barriers, mechanical and heating equipment, the by-law cannot regulate in this area. For this reason, we disapprove the text “**swimming pool barrier, pool mechanicals, pool heating equipment or**” from Section 4.2A (3) (f) as shown in bold and underline above.

2. *Section 4.2A (3)(g) – Covers*

Section 4.2A (3) (g), “Covers,” imposes swimming pool cover requirements as follows, with emphasis added:

All swimming pools will be equipped with a winter safety cover for off-season use.

We disapprove the text above in bold and underline because it conflicts with the Building Code. The Building Code, through the IPSC (Subsection 303.1.3) governs when swimming pool covers are required and contains specific exemptions related to pool covers. Section 4.2A (3) (g) would interfere with and effectively override the Building Code’s regulation of covers. For this reason, we disapprove Section 4.2A (3) (g).

3. *Section 4.2A (3)(l) – Fire Protection*

Section 4.2A (3) (l), “Fire Protection,” imposes requirements related to standpipes, as follows, with emphasis added:

A standpipe for Fire Department access is required for all pools containing over 10,000 gallons of water. The Fire Department Chief must approve the standpipe design and placement **before an applicant may obtain a building permit.**

We disapprove the text above in bold and underline that prohibits a building permit from issuing unless the Fire Chief approves the design and placement of the required standpipe

because this text conflicts with the Building Code that regulates when a building permit can be withheld. See Building Code, Chapter 1, 780 CMR 105.3.1 (governing when a building permit can be withheld). We acknowledge that 780 CMR 105.3.1 allows a building permit to be withheld for failure to comply with local zoning requirements. But here, because the by-law requires the approval of a non-building official (the Fire Chief) before a building permit can be granted (or denied), the by-law gives the Fire Chief the authority to withhold the issuance of a building permit. This provision conflicts with the Building Code's provisions that authorizes the Building Official (defined to include the building commissioner or inspector of buildings, local inspector, and state building inspector) to enforce the Building Code, including issuing (or withholding) building permits. See 780 CMR §§ 103 and 104. The Town should consult with Town Counsel with any questions on this issue.

IV. Additional Comments

A. Section 4.2A (3) (a) -- Permitting and Enforcement

Section 4.2A (3) (a) requires applicants for a special permit to demonstrate that they are in compliance with all requirements of the ISPC as adopted by and incorporated in the Building Code. We approve this provision, but we remind the Town that only the Building Official, not another Town entity such as the Zoning Enforcement Officer or the Special Permit Granting Authority, can enforce the State Building Code. See 780 CMR § 1.03. The Town must ensure that the by-law is not applied in a manner that would permit a non-Building Official to enforce the State Building Code. The Town should consult with Town Counsel with any questions on this issue.

B. Request the BBRS to Adopt Regulations

Although we have disapproved certain by-law provisions in Section 4.2A (3) (f), (g) and (l), the Town can petition the BBRS for approval of regulations more restrictive than those currently imposed under the Building Code. General Laws Chapter 143, Section 98 authorizes towns seeking to enforce regulations more restrictive than those currently imposed under the Building Code to request that the BBRS adopt such regulation. The BBRS will grant such a request only upon a finding, after conducting a public hearing, "that more restrictive standards are reasonably necessary because of special conditions prevailing within such city or town and that such standards conform with accepted national and local engineering and fire prevention practices, with public safety and with the general purposes of a statewide building code....." G.L. c. 143, § 98. The Town may wish to discuss this option with Town Counsel and the BBRS.

V. Conclusion

We approve the by-law adopted under Article 27 except for the text in Sections 4.2A (3) (f), (g) and (l), as shown above in bold and underline. The Town must ensure that the remainder of by-law is applied in a manner that does not interfere or conflict with the Building Code's regulation of swimming pools, including barrier requirements. See 780 CMR § 305 (regarding barrier requirements for pools and spas). The Town should consult with Town Counsel to ensure the proper application of the remaining portions of the by-law.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418

cc: Town Counsels Ronald H. Rappaport and Michael A. Goldsmith



Jennifer L. Christy
Town Clerk

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The Town of Chilmark, at the Annual Town Meeting on Monday, April 24, 2023,
voted on the following article:

ARTICLE 27. To see if the Town will vote to amend Section 4.2A of the Zoning Bylaws by replacing paragraph 3 Swimming Pool and/or Tennis Court, and inserting the following:

3. Swimming Pool and/or Tennis Court.

Swimming pools and tennis courts are considered accessory to the use of a principal dwelling. The Town 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 in the Massachusetts Building Code. In addition, a Special Permit is required for a swimming pool or a tennis court from the Zoning Board of Appeals 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 a 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 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:** A swimming pool or tennis court permitted under this Section may only be used 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. Setback relief may be available under Section 6.6.

- e. **Access and Enclosure:** 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. **Line of Sight Observation:** A pool must be situated so as to provide a clear and direct line of sight to the entire pool area (not dependent upon a closed circuit camera or other equipment enabling remote observation) from a highly used room or place 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, pool heating equipment 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 swimming pools will be equipped with a winter safety cover for off-season use.
- h. **Energy Use:** If a swimming pool is heated, applicants are strongly encouraged to use:
 - a. an energy efficient heating system, including on-site solar thermal or a heat pump system; and
 - b. a powered pool cover to conserve energy and provide additional safety.
- i. **Light:** The swimming pool or tennis court must comply with sections 5.5, 5.6 and 5.7 of these Zoning Bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts must not be lighted.
- j. **Noise:** 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. **Landscaping and Visibility:** 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.

- 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 approve the standpipe design and placement before an applicant may obtain a building permit.
- 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.
- 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 Laws:** 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.

No Action Taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

Town of Chilmark Annual Town Meeting Action on Article 27:

The Moderator stated that she would not read Article 27 in its entirety unless a voter asked for this. No voter asked for the Article to be read. The Article was moved and seconded. Rich Osnoss, Planning Board chairperson, was recognized and urged support for the Article amending the swimming pool section of the Town's zoning bylaw. Rich Osnoss described the history of the bylaw amendment process, the lengthy period of input on the proposed amendment during the previous year in public hearings and addressed a question from a voter regarding the apparent increase in discretion provided to the Zoning Board of Appeals in this amendment. There was no more discussion. The Moderator alerted voters that the Article requires a 2/3rds vote to pass. The Moderator called all those in favor of Article 27 to say aye. Many voters said aye. The Moderator then called on those opposed to say nay. A voter said nay. The Moderator stated the vote was not unanimous and asked those opposed to please stand. One voter stood. The Moderator asked all those in favor to please stand. Many voters stood in favor. The Moderator counted fifty-five (55) voters in favor and one (1) voter opposed.

The Moderator declared the Article 27 carried by a 2/3rds vote.

Certified:



Jennifer L. Christy, Chilmark Town Clerk, May 5, 2023

TRUE COPY ATTEST:
Jennifer L. Christy
Chilmark Town Clerk





TRUE COPY ATTEST:
Jennifer L. Christy
Chilmark Town Clerk

Warrant for Annual Town Meeting

April 24, 2023

County of Dukes County, ss.

To the Constables of the Town of Chilmark,

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to warn and notify the inhabitants of the Town of Chilmark, qualified to vote in elections and town affairs, to assemble at the Chilmark Community Center 520 South Road in said Town of Chilmark on Monday, the twenty-fourth day of April in the year Two Thousand and Twenty-Three A.D. at seven o'clock in the evening 7:00 P.M., there and then to act on the Articles in this Warrant, with the exception of Article One.

And to meet again in the Chilmark Community Center 520 South Road, in said Town of Chilmark on Wednesday, the twenty-sixth day of April in the year Two Thousand and Twenty-Three A. D. 12 Noon, there and then to act on Article One of the Warrant by the election of Town Officers and action on Questions on the Official Ballot.

The polls for voting on the Official Ballot will be open at 12:00 P.M. Noon, and shall close at eight o'clock in the evening, 8:00 P.M.

ARTICLE 1. To elect the following officers on the Official Ballot:

- | | |
|---|-----------------|
| One Member of the Select Board | for three years |
| One Member of the Board of Assessors | for three years |
| One Member of the Board of Health | for three years |
| One Trustee of the Public Library | for three years |
| One Member of the Cemetery Commission | for three years |
| Two Members of the Finance Advisory Committee | for three years |
| One Member of the Planning Board | for five years |
| One Fence Viewer | for three years |
| One Surveyor of Wood, Lumber and Bark | for three years |
| One Tree Warden | for one year |

Question 1. Shall the Town of Chilmark be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for bonds issued in order to pay costs of upgrading the HVAC systems at the Chilmark School, and to pay for the payment of any and all other costs incidental and related thereto?
Yes No

Question 2. Shall the Town of Chilmark be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the Town's allocable share of the bond issued by the Martha's Vineyard Regional School District to pay costs of a feasibility study relating to the possible replacement or reconstruction of the District High School, located at 100 Edgartown-Vineyard Haven Road, in Oak Bluffs, Massachusetts, including all costs incidental and related thereto?
Yes No

Question 3. Shall the Town of Chilmark be allowed to assess an additional \$297,988 in real estate and personal property taxes for the purposes of operating the Up Island Regional Schools for the fiscal year beginning July 1, 2023?
Yes No

ARTICLE 2 To hear the reports of the Town Officers and Committees and act thereon.

ARTICLE 3. To see if the town will vote to raise such sums of money as will be necessary to defray town charges and to make the appropriations for the ensuing year, as printed under Departmental Budgets - Salaries and Expenses totals, and that the amount set forth under the Community Preservation Committee (Dept. 179) shall be funded from the Community Preservation FY2024 Budgeted Reserve Fund Balance,

further provided that the amount of **\$297,998** set forth under the Up Island Regional School District (Department 300 Education), shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 26th 2023 vote in the affirmative to override proposition 2½.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 4. To see if the town will vote to raise and appropriate the sum of **\$5,000.00** and further appropriate the sum of \$5,000.00 to be received from the Chilmark Town Affairs Council, subject to receipt, which amounts are to be added to the maintenance account of the Chilmark Community Center.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 5. To see if the town will vote to transfer from available funds in the treasury the sum of **\$50,000** and further **\$25,000** from the Overlay Surplus Account for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2023.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 6. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$15,000** to fund the Reserve Fund for the Future Payment of Accrued Liabilities for Compensated Absences.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 7. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of \$20,000 to the town's stabilizations funds as follows:

\$5,000 to be placed in the General Stabilization Fund,

\$5,000 to be placed in the Fire Department Stabilization Fund, with the intent that it be put towards the replacement costs for fire apparatus which is over twenty-five (25) years in age,

\$5,000 to be placed in the Police Vehicle Stabilization Fund,

\$5,000 to be placed in the Highway Stabilization Fund.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 8. To see if the Town will appropriate **\$2,251,047** to pay the costs of procuring and installing a cold-climate heat-pump system and additional insulation at the Chilmark School, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen is authorized to borrow said amount under and pursuant to G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; provided, however, that this appropriation shall only take effect if the Up Island Regional School District Committee, the Town of Aquinnah, and the Town of West Tisbury approve and join in an Inter Municipal Agreement authorizing this HVAC project and providing for the apportionment of the costs of this project. The \$950,000 previously appropriated for this project under Article 1 of the Warrant at the Special Town Meeting held on November 6, 2021 is hereby rescinded.

Recommended by the Finance Advisory Committee - 5 Ayes - 1 Nay - 1 Absent

ARTICLE 9. To see if the Town will vote to transfer from the Fire Stabilization Fund the sum of **\$315,000** for the purchase of a fire apparatus as a replacement for the 1986 Class A fire engine, or to take any other action relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 10. To see if the Town will vote to approve the **\$2,000,000 borrowing** authorized by the

Regional District School Committee of the Martha's Vineyard Regional School District, for the purpose of paying costs of a **feasibility study** relating to the possible **replacement or reconstruction of the District High School**, located at 100 Edgartown-Vineyard Haven Road, in Oak Bluffs, Massachusetts, including all costs incidental and related thereto, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the School Building Committee, or to take any other action relative thereto. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any Study costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member towns. Any grant that the District may receive from the MSBA for the Study shall be as set forth in the Feasibility Study Agreement that may be executed between the District and the MSBA. This approval of the District's borrowing is conditioned upon and subject to an affirmative vote of the Town to exclude the amounts needed to repay the Town's allocable share of this borrowing from the limitation on local property taxes contained in G.L. c. 59, §21C (*also known as Proposition 2½*).

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 11. To determine whether the Town will vote to accept and approve the **amendment and restatement of the Regional Agreement** for the Martha's Vineyard Regional School District which was initiated and approved by a vote of the School Committee for the **Martha's Vineyard Regional School** District on September 1, 2022, and which has been submitted as an amended and restated "Regional Agreement for Martha's Vineyard Regional School District" to the Town Clerks of each Member Town, consistent with Section XIII of the existing Regional Agreement, titled "REGIONAL AGREEMENT Martha's Vineyard Regional High School"; or take any action relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 12. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$10,780** to fund the Town's share of the administrative expenses of the All Island School Committee's contract for adult and community education programs in Fiscal Year 2024.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 13. To see if the Town will vote to transfer from available funds in the treasury,, and appropriate the sum of **\$ 27,852.32** to support the maintenance costs of the Martha's Vineyard Public Safety Communication System (Regional Emergency Communications Center) in accordance with the Cooperative Agreement for Emergency Communications and Dispatch Services. The funding is contingent on all Island Towns paying for such costs in Fiscal Year 2024 according to the agreed upon dispatch and fixed cost formula. *Submitted by the Dukes County Sheriff*

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent.

ARTICLE 14. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$67,349** to pay the FY2024 operating costs of regional services provided through Dukes County:

- **\$4,915**, as the Town's proportionate share of the Fiscal Year 2024 cost to fund the **Dukes County Social Services**, based on the "50/50" formula.

- **\$10,795** to fund the **CORE** program under the supervision of the Up Island Council on Aging.
- **\$12,707**, as the Town's proportionate share of the Fiscal Year 2024 cost to fund the **Healthy Aging Martha's Vineyard** for planning, community building and advocacy work for all Island elders, based on the "50/50" formula.
- **\$5,155**, as the Town's proportionate share of the Fiscal Year 2024 cost to fund the **Dukes County Substance Use Disorder** prevention programs, based on the "50/50" formula.
- **\$6,320**, as the Town's proportionate share of the Fiscal 2024 cost to fund the **Homelessness** initiative, based on the "50/50" formula.
- **\$21,220** as the apportioned share of the necessary improvements of the Dukes County Health Care Access **building**.
- **\$6,237** as the apportioned share of the county budget supplemental income.

Submitted by the Dukes County Commissioners

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 15. To see if the Town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$70,000** to pay to replace the telephone systems at town buildings, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 16. To see if the Town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$20,000** for bills of a previous fiscal year.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 17. To see if the Town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$85,000** to have an engineering company prepare **plans** and obtain **permits** for the **dredging** of both Chocker's Creek and Hariph's Creek in Nashaquitsa Pond to improve water flushing and navigation, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 18. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$25,000** to, provide the town's matching share of a grant to install an **Electric Vehicle Fast Charger** at the Chilmark School, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 19. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$20,000** to complete annual maintenance dredging of less than 1,000 cubic yards within Menemsha Harbor for the purposes of navigation, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 20. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$55,000** to repair the west facing timber bulkhead of the Filled Dock, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 21. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$20,000** to complete necessary annual dock repair and pile

driving, including the payment of costs incidental and relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 22. To see if the town will vote to transfer from available funds in the treasury, and appropriate the sum of **\$10,000** to purchase a forestry fire fighting slip-in unit for the Fire Department UTV, including the payment of costs incidental and relative thereto.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 23. To see if the town will vote to transfer from available funds in the treasury the sum of **\$212,900** to reduce the tax rate for the fiscal year beginning July 1, 2023.
Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 24. To see if the Town will vote to approve the following requests of the Community Preservation Committee:

- (1) To see if the Town will vote to reserve from the Community Preservation Fund FY 2024 estimated annual revenues up to the following amounts for community preservation projects: **\$55,784** for the Community Preservation Reserve for Open Space; **\$55,784** for the Community Preservation Reserve for Historic Resources; **\$55,784** for the Community Preservation Reserve for Community Housing; and **\$390,486** for the Community Preservation Budget Reserve.
- (2) To see if the Town will vote to appropriate from the FY 2024 Community Preservation Reserve for Community **Housing** the sum of **\$15,000** to assist with the purchase of an existing building and the creation of 5 – 6 additional units of affordable housing. This is a regional project. CPC funds from all towns will be used to help finance the property. The home will be purchased by **Harbor Homes of Martha's Vineyard**, Inc. for its exclusive use to serve homeless individuals. If the property is sold or its use changes, 100 percent of the funds shall be reimbursed to the Town of Chilmark Community Preservation Reserve for Community Housing. If the Town has repealed the CPA the funds shall be reimbursed to the Town's Molly Flender Affordable Housing Trust. The funds shall not be distributed until the property has been identified.
- (3) To see if the Town will vote to appropriate from the FY 2024 Community Preservation Reserve for Community **Housing** the sum of **\$25,000** for Phase 2 of a mixed use of housing and park & recreation to the Island Autism Group. *The request is Chilmark's share of CPA funds being raised to partially fund the acquisition of 7.5-acres and construction costs for residential units at 515 Lambert's Cove Rd. in West Tisbury. Three of the 7.5-acres is dedicated to housing eligible people with autism needs preferably from the island and earning less than 100% AMI. If the property is sold or its use changes, 100 percent of the funds shall be reimbursed to the Town of Chilmark Community Preservation Reserve for Community Housing. If the Town has repealed the CPA the funds shall be reimbursed to the Town's Molly Flender Affordable Housing Trust.*
- (4) To see if the Town will vote to appropriate from the FY 2024 Community Preservation Reserve for **Historic Resources** the sum of **\$15,000** to the Martha's Vineyard Camp Meeting Association. *The request is Chilmark's share of CPA funds being raised to restore the roof on the historic Tabernacle in Oak Bluffs. This structure is listed in the National Registry of historic places.*
- (5) To see if the Town will vote to appropriate from the FY 2024 Community Preservation Reserve for **Open Space & Recreation** the sum of **\$15,000** for

Aquinnah Parks & Recreation Committee to help fund a community designed playground that will be the center of the Community Hub. *The playground will be located on Aquinnah town property, behind the Aquinnah Town Hall and will be a safe, accessible place for Island families to gather.*

- (6) To see if the Town will vote to appropriate from the FY24 Community Preservation Reserve for **Historic Resources** the sum of **\$10,000** to the Chilmark Cemetery Commission for the restoration of historic headstones in Abel's Hill Cemetery by a qualified party.
- (7) To see if the Town will vote to appropriate the sum of **\$150,000** from the Community Preservation Reserve for **Community Housing** for Peaked Hill Pastures affordable housing to be used for planning, design, permitting and construction layout.

No Action Taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 25. To see if the Town will vote to authorize the Select Board to issue a Request for Proposals ("RFP") to lease an area of land adjacent to the Chilmark Elementary School for the construction of a building, approximately 24' x 60' in size, which would contain two classrooms for up to thirty-two (32) preschoolers and toddlers (with priority enrollment to be offered to residents of Chilmark and Aquinnah), and which space could also be utilized by the Chilmark Community Center during the summer months; provided, however, that the permitting, design and construction of the building and the operation of the preschool would be managed and funded by a not-for-profit entity at no cost to the Town. The specific location of the building and the specific terms of any lease shall be authorized by a vote of a subsequent Town Meeting, and approved by the Up-Island Regional School Committee. It is the intent of this Article that title to the building will revert to the Town at the end of the lease term, or at such earlier time as the lease shall provide, or to take any other action relative thereto.

Recommended by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

ARTICLE 26. To see if the Town will vote to authorize the Select Board Members to petition the State Legislature to allow the Town of Chilmark to issue not more than four annual or seasonal licenses under Massachusetts General Laws, Chapter 138, section 12 for the sale of all liquors to be drunk on the premises of restaurants with seating capacities of not less than 30 persons, and to be consumed with meals only, notwithstanding any limitations imposed by Sections 11, 11A, and 17 of Chapter 138 of the General Laws or any other special or general law to the contrary.

Submitted by petition of: Jenna Petersiel, Roger Cook, Russell Maloney, Jan Buhrman, Richard Osnoss, Judith LoRusso, Frank LoRusso, Edward Gavin, Joel Glickman, Jennifer LoRusso, William Rossi, Joseph Rossi, Stephanie daRosa, James Bohan, Matthew Littlefield, Patricia Bacon, Jeffrey Zack, Loren Ghiglione, Alex Koren, Robert Rosenbaum, Quinn Littlefield, Steve McQuiggan, Ellen Biskis, Aaron Barbatti, Helen Delilah Meegan, Steve Bernier, Eric Glasgow, Molly Glasgow, Nancy Grundman, Jay Grossman, Ann DeWitt, Sarah Flanders, Lindsay Morgan, Jesse Jason, Dennis Jason, Julie Sennott, Charles Sennott, Ariana Binney, Anne Rudner, Carol Shweder, Richard Shweder, Elisa Cohen, & Richard Gilberg.

No Action Taken by the Finance Advisory Committee - 5 Ayes - 0 Nays - 1 Abstain - 1 Absent

ARTICLE 27. To see if the Town will vote to amend Section 4.2A of the Zoning Bylaws by replacing paragraph 3 Swimming Pool and/or Tennis Court, and inserting the following:

3. Swimming Pool and/or Tennis Court.

Swimming pools and tennis courts are considered accessory to the use of a principal dwelling. The Town 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 in the Massachusetts Building Code. In addition, a Special Permit is required for a swimming pool or a tennis court from the Zoning Board of Appeals 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 a 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 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:** A swimming pool or tennis court permitted under this Section may only be used 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. Setback relief may be available under Section 6.6.
- e. **Access and Enclosure:** 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. **Line of Sight Observation:** A pool must be situated so as to provide a clear and direct line of sight to the entire pool area (not dependent upon a closed circuit camera or other equipment enabling remote observation) from a highly used room or place 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, pool heating equipment 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 swimming pools will be equipped with a winter safety cover for off-season use.
- h. **Energy Use:** If a swimming pool is heated, applicants are strongly encouraged to use:
 - a. an energy efficient heating system, including on-site solar thermal or a heat pump system; and
 - b. a powered pool cover to conserve energy and provide additional safety.
- i. **Light:** The swimming pool or tennis court must comply with sections 5.5, 5.6 and 5.7 of these Zoning Bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts must not be lighted.
- j. **Noise:** 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. **Landscaping and Visibility:** 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.
- 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 approve the standpipe design and placement before an applicant may obtain a building permit.
- 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.
- 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 Laws:** 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.


No Action Taken by the Finance Advisory Committee - 6 Ayes - 0 Nays - 1 Absent

You are hereby directed to serve this warrant by posting attested copies in three public places in said Town of Chilmark at least seven days before the time of said meeting, and to publish said warrant in one newspaper having general circulation in the Town of Chilmark during the week before said meeting.

Given under our hands this 23rd day of March, A.D. 2023.

Chilmark Select Board

James M. Malkin


William N. Rossi, Chairman


Warren M. Doty

I have notified the inhabitants of the Town of Chilmark qualified to vote in town affairs, by posting three (3) attested copies of this warrant in three (3) public places and by publishing said warrant in one newspaper having general circulation in said Town of Chilmark and made due return of this warrant at the time and place of said meeting. God save the Commonwealth.

Posted:

4-10-23

By:



Constable Marshall E. Carroll, III

Town of Chilmark

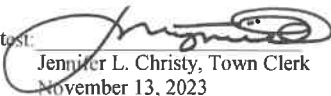


Zoning By-laws

and

Districts of Critical Planning Concern

A true copy. Attest:


Jennifer L. Christy, Town Clerk
November 13, 2023

Amended on April 27, 2009 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on August 20, 2009.

Amended on April 25, 2011 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on August 2, 2011.

Amended on April 22, 2013 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on July 9, 2013.

Amended on April 27, 2015 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on July 30, 2015.

Amended on April 25, 2016 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on May 24, 2016.

Amended on April 24, 2017 at the Chilmark Special Town Meeting:

- Amendment to Article 11 was voted in conformance on June 22, 2017 by the Martha's Vineyard Commission.
- Amendment to Article 12 was approved by the Attorney General on July 31, 2017

Amended on April 22, 2019 at the Chilmark Annual Town Meeting and amendment was approved by the Attorney General on August 2, 2019

Amended on April 25, 2022 at the Chilmark Annual Town Meeting and amendments were approved by the Attorney General on July 18, 2022

Amended on April 24, 2023 at the Chilmark Annual Town Meeting and amendments were partially approved by the Attorney General on Nov. 6, 2023

Copies of the Chilmark Zoning Bylaws, as amended, are available at the Chilmark Town Hall and by following this link: www.chilmarkma.gov

Town of Chilmark
Original Zoning By-law
(Adopted October 11, 1967)

No house trailer, mobile home or camper (defined as a unit providing sleeping and living quarters mounted on or towed by a motor vehicle and whether capable of being detached from or built as an integral part of said vehicle, and whether so mounted or detached) shall be kept in the Town of Chilmark. Provided, however, that the foregoing shall not prohibit the presence of a trailer, if a trailer camp should be established under provisions of Chapter 140 of the General Laws of Massachusetts and with the consent of the Selectmen and also provided that the Board of Selectmen is authorized to appoint in accordance with Section 14 of Chapter 40-A of the General Laws an Appeals Board consisting of five members.

Any person violating this By-law shall be punished by a fine of not more than \$50.00 for each offense. Each day that such offense continues shall constitute a separate offense.

TABLE OF CONTENTS

MAPS

Zoning Map of Chilmark	M-1
Wascosim's Rock Special Place DCPC	M-2
Squibnocket Pond District.....	M-3
Conservation District of Nomans Land Island	M-4

SUMMARY OF ZONING HISTORY

Summary.....	i-vii
--------------	-------

ARTICLE I

PURPOSE

Section 1.0 Purpose	1-1
---------------------------	-----

ARTICLE 2

DEFINITIONS

Section 2.0 Accessory Building	2-1
Section 2.1 Barn.....	2-1
Section 2.1.1 Curved or Rounded Roof.....	2-1
Section 2.2 Dwelling.....	2-1
Section 2.3 Flat or Shed Roof.....	2-1
Section 2.4 Gabled or Hip Roof.....	2-1
Section 2.5 Guest House	2-1
Section 2.6 Lot	2-1
Section 2.7 Maximum Height	2-2
Section 2.8 Segment.....	2-2
Section 2.9 Silo.....	2-2
Section 2.10 Structure	2-2
Section 2.11 Floor Area.....	2-2
Section 2.12 Driveway.....	2-2
Section 2.13 Use, Principal.....	2-2
Section 2.14 Use, Accessory	2-2
Section 2.15 Two-Family Dwelling.....	2-2
Section 2.16 One-Family Dwelling.....	2-3
Section 2.17 Family.....	2-3
Section 2.18 Light Pollution.....	2-3
Section 2.19 Light Trespass	2-3
Section 2.20 Wireless Communications Transmitter	2-3
Section 2.20.1 Antenna.....	2-3
Section 2.20.2 Antenna Support.....	2-3
Section 2.20.3 Base Station.....	2-3
Section 2.20.4 Base Station Facility.....	2-3
Section 2.20.5 Chilmark Plan Review Committee.....	2-3
Section 2.21 Affordable Housing.....	2-4
Section 2.22 Swimming Pools	2-4
Section 2.23 Detached Bedroom	2-4
Section 2.24 Total Living Area	2-4
Section 2.25 Accessory Apartment	2-4
Section 2.26 Caregiver.....	2-4
Section 2.27 Historic House.....	2-5
Section 2.28 Tennis Court.....	2-5

ARTICLE 3	ESTABLISHMENT OF DISTRICTS	
Section 3.0	Types of Districts	3-1
Section 3.1	Location of Districts	3-1
Section 3.2	Zoning Map	3-3
ARTICLE 4	USE REGULATIONS	
Section 4.0	Use Regulations	4-1
Section 4.1	Agricultural-Residential District I - Permitted Uses	4-1
Section 4.2	Uses Specially Permitted by Board of Appeals.....	4-1
	A. Accessory Uses	4-2
	1. Guest House.....	4-2
	2. Home Occupation	4-3
	3. Swimming Pool and/or Tennis Court.....	4-4
	4. Windmill.....	4-6
	5. Unlicensed Vehicles.....	4-6
	6. Conversion of a Barn	4-6
	7. Room Rentals or Bed and Breakfast.....	4-7
	8. Satellite Dishes	4-7
	9. Accessory Apartments-See Section 6.12	4-7
	B. Non-Accessory Uses	4-7
	1. A Private Club (Non-Profit), Gas Station, etc	4-7
	2. Conversion of a One-Family Dwelling	4-8
	3. Conversion of a Barn	4-8
	4. Removal of Gravel, Loam, Sand and Stone	4-8
	5. An Inn	4-8
	6. A Wireless Communications Transmitter	4-9
Section 4.3	Agricultural-Residential Districts II-A, II-B, III, IV, V, VI Permitted Uses.....	4-13
Section 4.4	Conservation District Permitted Uses	4-13
ARTICLE 5	SIGNS & OUTDOOR LIGHTING	
Section 5.0	Signs.....	5-1
Section 5.1	Permitted Uses	5-1
Section 5.2	Use Specially Permitted by Planning Board.....	5-1
Section 5.3	Prohibited Uses	5-1
Section 5.4	Signs in Existence	5-1
Section 5.5	Outdoor Lighting: Purpose	5-1
Section 5.6	Outdoor Lighting: Definitions.....	5-2
Section 5.7	Outdoor Lighting: Regulations	5-2
Section 5.8	Outdoor Lighting: Exceptions.....	5-2
Section 5.9	Exterior Mechanical Noise Abatement.....	5-3
ARTICLE 6	DIMENSIONAL AND DENSITY REQUIREMENTS	
Section 6.0	Minimum Lot Size and Setbacks.....	6-1
Section 6.1	Pre-Existing Lots	6-1
Section 6.2	Height Limitations	6-2
Section 6.3	Exception to Height Limitations	6-2
Section 6.4	Exception to Minimum Lot Size Regulation and Youth Lot.....	6-2

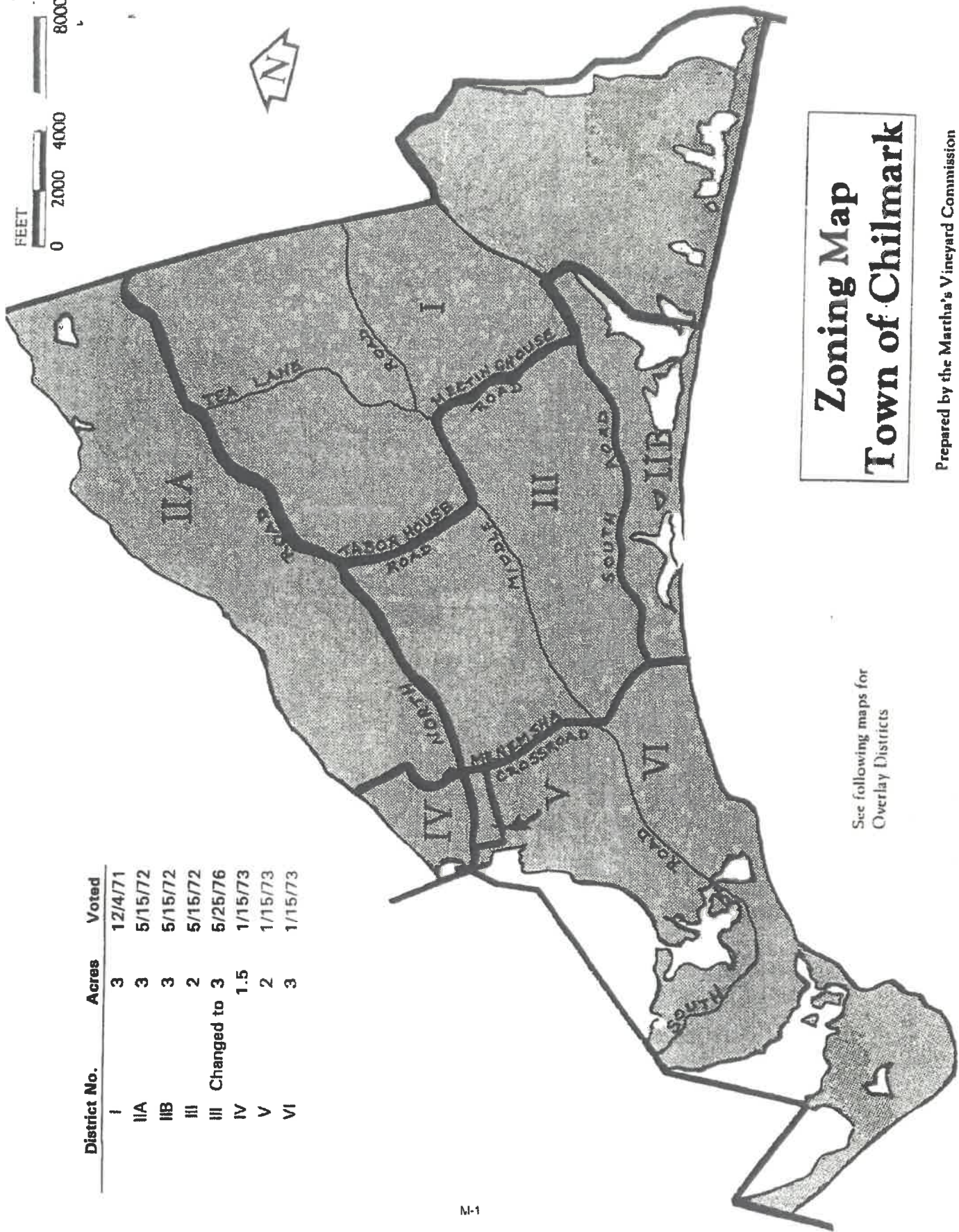
Section 6.5	Youth Lot - Planning Board Approval.....	6-3
Section 6.6	Exception to Minimum Setback.....	6-3
Section 6.7	Flexible Siting.....	6-3
Section 6.8	Requirements for Road Frontage and Lot Widths.....	6-4
Section 6.9	Homesite Housing.....	6-4
	A. Purpose.....	6-4
	B. Definitions	6-5
	C. Homesite Housing Lots.....	6-5
	D. Use, Resale and Transfer of Homesite Housing Lots.....	6-7
Section 6.10	Exception for Affordable Rental Housing	6-8
Section 6.11	Residential Building Size Regulations.....	6-9
Section 6.12	Exception for Accessory Apartments -Privately Owned Properties.....	6-13
ARTICLE 7	RATE OF DEVELOPMENT	
Section 7.0	Rate of Development	7-1
	A. Maximum Development.....	7-1
	B. Minimum Development	7-1
	C. Lots Transferred	7-1
Section 7.1	Building Cap.....	7-2
ARTICLE 8	NON-CONFORMING USES	
Section 8.0	Non-Conforming Uses	8-1
Section 8.1	Change of Use	8-1
Section 8.2	Expansion of Conforming Use	8-1
Section 8.3	Expansion of Non-Conforming Use.....	8-1
Section 8.4	Restoration	8-1
Section 8.5	Abandoned Use	8-1
Section 8.6	No Reversion	8-1
Section 8.7	Amendments	8-2
ARTICLE 9	ADMINISTRATION	
Section 9.0	Enforcement.....	9-1
Section 9.1	Board of Appeals	9-1
Section 9.2	Building Permits	9-1
Section 9.3	Application for Special Permit or Variance	9-1
Section 9.4	Special Permit or Variance Data Requirements.....	9-1
Section 9.5	Advisory Report from Planning Board	9-2
Section 9.6	Procedures for Special Permit or Variance.....	9-2
Section 9.7	Time Limit on Special Permit or Variance.....	9-2
Section 9.8	Criteria for Special Permit or Variance.....	9-2
Section 9.9	Appeals	9-2
ARTICLE 10	AMENDMENTS	
Section 10.0	Amendments	10-1
Section 10.1	Validity.....	10-1
Section 10.2	Original Zoning Bylaw.....	10-1
ARTICLE 11	DISTRICTS OF CRITICAL PLANNING CONCERN (OVERLAY DISTRICTS)	
Section 11.0	Purpose	11-1
Section 11.1	Supplementary Regulations	11-1
Section 11.2	Site Review Committee.....	11-1

Section 11.3	Procedure	11-1
Section 11.4	Development Definition	11-2
Section 11.5	Intent.....	11-2
Section 11.6	Designated Areas	11-2
	A. Coastal District	11-3
	B. Streams and Wetlands Draining into Coastal Great Ponds	11-5
	C. Chilmark Roadside District.....	11-5
	D. Special Places District.....	11-6
	E. Meetinghouse Road and Tiasquam River District.....	11-7
Section 11.7	Developments of Regional Impact.....	11-8
Section 11.8	Non-Conforming Uses	11-9
ARTICLE 12	SQUIBNOCKET POND DISTRICT	
Section 12.0	Purpose.....	12-1
Section 12.1	Boundaries	12-1
Section 12.2	Zones Within the District.....	12-1
	A. Zone A	12-1
	B. Zone B (Zone B1)	12-1
	(Zone B2).....	12-1
	C. Zone C.....	12-1
	D. Zone D	12-1
Section 12.3	Permitted Uses	12-1
	A. Zone A (Within Squibnocket Pond).....	12-1
	B. Zone B (Zone B1 and Zone B2).....	12-1
	C. Zone C.....	12-3
	D. Zone D	12-3
Section 12.4	Uses Allowed by Special Permit or by License	12-3
	A. Zone A (Within Squibnocket Pond).....	12-3
	B. Zone B1	12-4
	C. Zones B2 and C.....	12-4
	D. Zone D	12-4
	E. Exemptions.....	12-4
Section 12.5	Squibnocket Pond Advisory Committee.....	12-5
Section 12.6	General Regulations for the District.....	12-5
	A. Site Review Committee.....	12-5
	B. Height Limitations.....	12-5
	C. Septic Systems.....	12-6
	D. Historical and Archeological Resources	12-6
	E. Erosion and Sedimentation Control.....	12-6
	F. Coastal Area	12-6
	G. Wildlife Habitat.....	12-6
	H. Prohibited Uses.....	12-6
ARTICLE 13	Wild and Scenic North Shore Overlay District.....	13-1
ARTICLE 14	Menemsha, Nashaquitsa, & Stonewall Ponds Overlay District.....	14-1
ARTICLE 15	Large-Scale Ground-Mounted Solar Photovoltaic Installation District.....	15-1
Section 15.0	PURPOSE	15-1
Section 15.1	DISTRICT BOUNDARIES (DESIGNATED AREA)	15-1
Section 15.2	APPLICABILITY	15-1

Section 15.3	PERMITTED USE	15-1
Section 15.4	DEFINITIONS	15-1
Section 15.5	GENERAL REQUIREMENTS FOR LARGE SOLAR INSTALLATIONS	15-1
	A. Compliance with Laws, Bylaws.....	15-1
	B. Building Permit and Fees	15-2
	C. Planning Board Review.....	15-2
	D. Required Documents.....	15-2
	E. Design Standards.....	15-3
	F. Safety and Environmental Standards	15-4
	G. Setbacks.....	15-4
	H. Appurtenant Structures.....	15-4
	I. Utilities	15-4
	J. Monitoring and Maintenance.....	15-5
	K. Decommissioning Requirements.....	15-5
	DEVELOPMENT GUIDELINES	DG-1
	INDEX	I 1-5



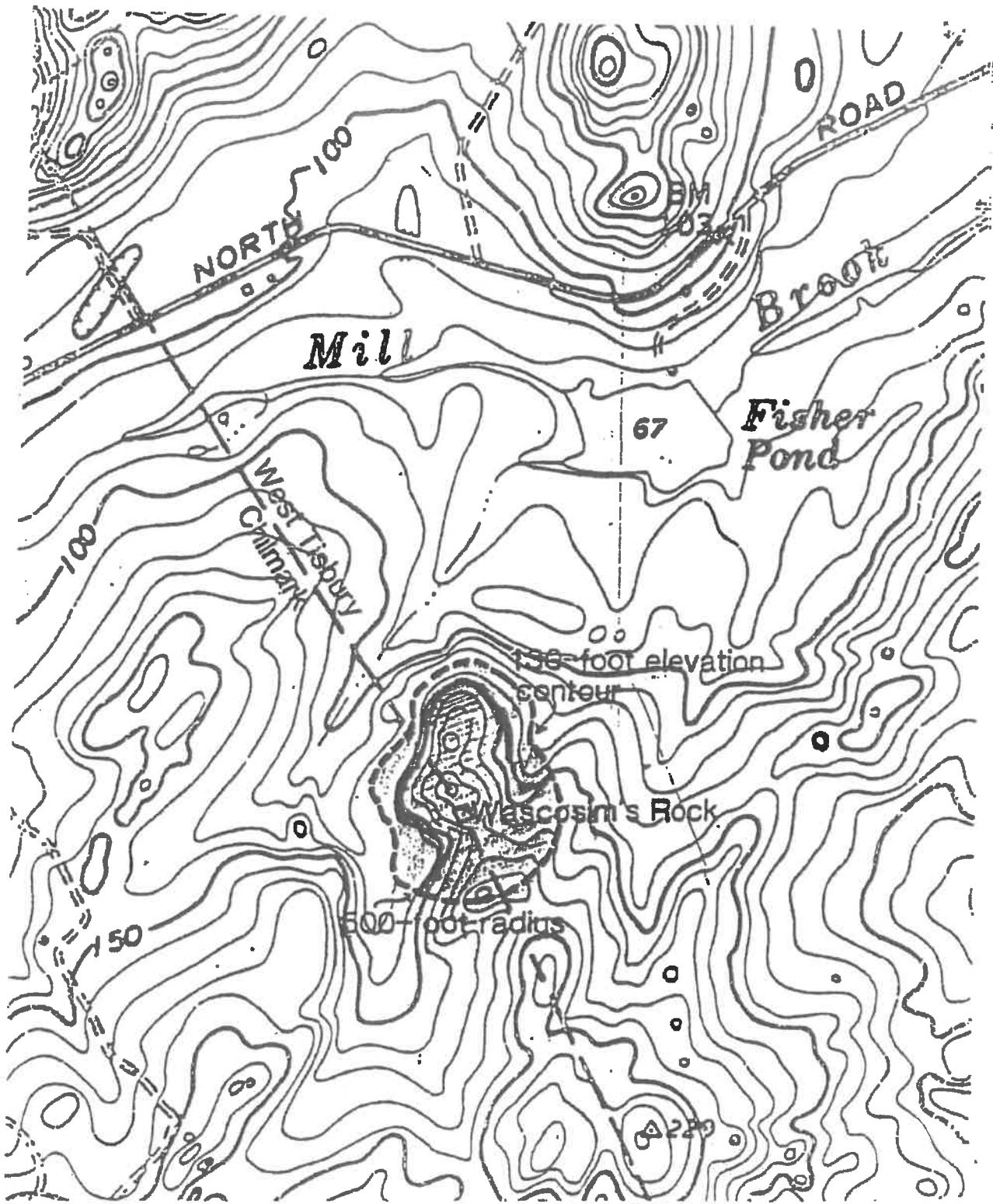
District No.	Acres	Voted
I	3	12/4/71
IIA	3	5/15/72
IIB	3	5/15/72
III	2	5/15/72
III	Changed to 3	5/25/76
IV	1.5	1/15/73
V	2	1/15/73
VI	3	1/15/73



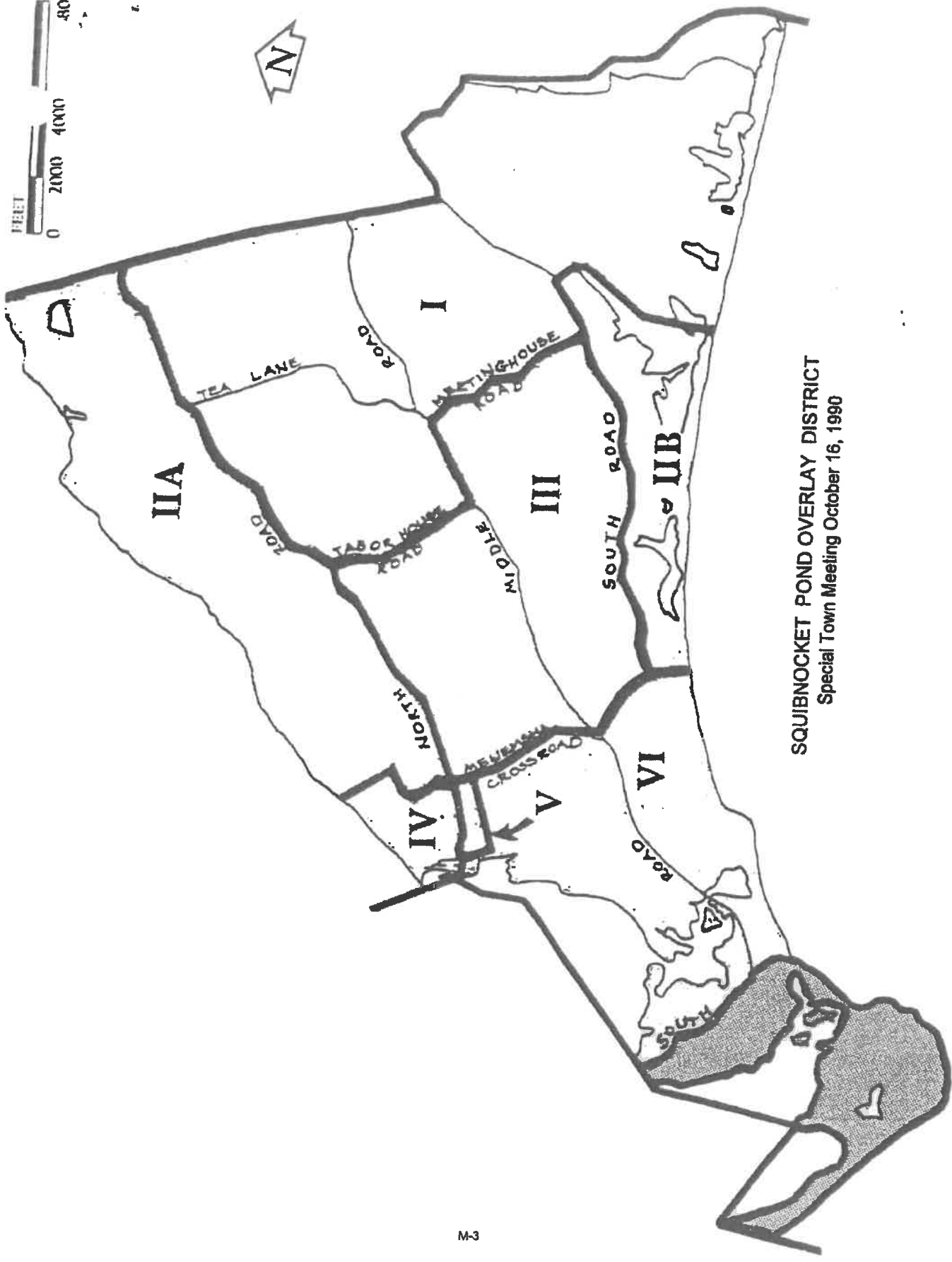
Zoning Map Town of Chilmark

Prepared by the Martha's Vineyard Commission

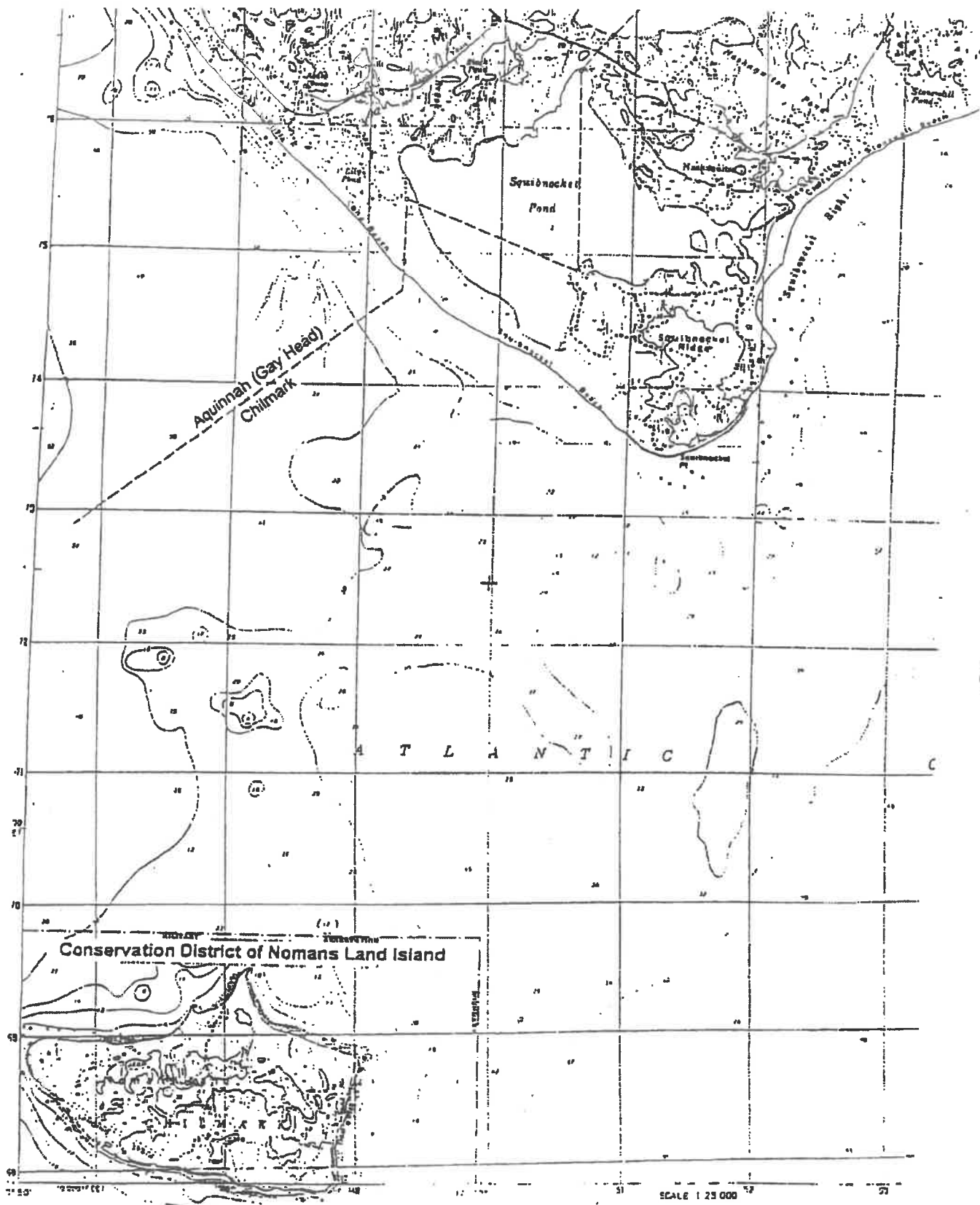
See following maps for
Overlay Districts



WASCOSIM'S ROCK SPECIAL PLACE
DCPC OVERLAY
Voted 4/24/89



SQUIBNOCKET POND OVERLAY DISTRICT
Special Town Meeting October 16, 1990



Mapped, edited, and published by the Geological Survey
 Conducted by USGS, USC&GS, and Massachusetts Geologic Survey
 Planimetry by photogrammetric methods from aerial photographs
 taken 1939. Topography by photostereoscopy 1962
 Derived from aerial photographs taken 1969. Field checked 1972
 Selected hydrographic data compiled from USC&GS Charts 156 (1970) and
 1210 (1970). This information is not intended for navigational purposes.
 Polyconic projection. 1927 North American datum.
 10,000-foot grid based on Massachusetts coordinate system. Island zone
 1,000-meter Universal Transverse Mercator and zone 19.
 Boundaries in 1/8-mile sizes from information furnished
 by Massachusetts Planning Board.

Conservation District of Nomans Land Island
 Special Town Meeting September 25, 2000

SUMMARY OF ZONING HISTORY

(This summary is included for convenience only and is not intended to be part of the Zoning Bylaws)

October 11, 1967

(first advertised August 4, 1967)

First zoning bylaw adopted by the town prohibiting trailers.

December 4, 1971

(first advertised November 5, 1971, approved February 25, 1972)

Amendments adopted: Agricultural- Residential District I, (3 acre minimum lot size); permitted uses; **establishment of a Board of Appeals**; uses permitted by the Board of Appeals; non-conforming uses; definitions

May 15, 1972

(first advertised April 14, 1972, approved August 14, 1972)

Amendments adopted: Districts II-A and II-B (3 acre minimum lot size); District III (2 acre minimum lot size); **business uses**, subject to 300- foot setback and **sign** regulations.

January 15, 1973

(first advertised October 6, 1972, approved April 9, 1973)

Amendments adopted: District III business uses subject to 200-foot setback or 100 feet if in Districts IV, V, and VI. District IV (1.5 acre minimum lot size); District V (2 acre minimum lot size); District VI (3 acre minimum lot size); added permitted uses; business use replaced by section on **home occupation**; restrictions added to uses by special permit; **height restrictions** of 13 feet for shed or flat roof, 24 feet for gabled roof.

February 3, 1975

Establishment of a Planning Board (Article 1 of Special Town Meeting)

March 15, 1976

(first advertised January 21, 1976, approved May 25, 1976)

Amendments adopted: additions to purpose section; District III changed to 3 acre minimum lot size; setbacks in all Districts; added permitted uses and uses by special permit; **sign** section; 28 foot height by special permit for reproduction of **historic building**; provisions for **youth lots**; **flexible siting**; **rate of development**; added definitions.

December 15, 1976

Amendment adopted on setbacks in non-conforming use section. Adoption of **Districts of Critical Planning Concern** and regulations for the districts. (Amended and approved by the Martha's Vineyard Commission, December 16, 1976)

June 8, 1977

Meeting House Road and Tiasquam River District added to **Districts of Critical Planning Concern**. (Approved by the Martha's Vineyard Commission, June 14, 1976)

June 27, 1978

Amendments adopted: Article 8, **Non-Conforming Use** section clarified; Article 9, Administration, to conform with new state zoning act.

April 7, 1980

Amendments adopted; Article 4, 4.1 Permitted Uses, Section I added; 4.2A, d amended; f added; Section 9.1, Board of Appeals amended; Article II, Section 11.7A, c, ii amended.

August 31, 1982

Amendments adopted; Article 2, Section 2.5 guest house amended; Section 2.15 **Two- Family Dwelling** amended; Section 2.16, **One-Family Dwelling**, added; Section 2.17, **Family**, added.

April 4, 1983

Amendments adopted: Article 2, definitions for **Floor Area, Driveway**. (Use, Principal), (Use, Accessory); Article 6, Section 6.9, amended.

June 25, 1985

Amendments adopted: Article 6, Section 6.8, **Road Frontage and Lot Widths & Section 6.1b** [Section 6.2B April 4, 1983], **Pre-Existing Lots**.

April 25, 1988

Amendments adopted: Section 4.2A **Room Rentals, Bed and Breakfast Accommodations, satellite dishes**, Sections 4.1 and 4.2B **Room Rentals**.

April 24, 1989

Wascosim's Rock added to **Districts of Critical Planning Concern** (Designated by the Martha's Vineyard Commission May 12, 1988).

June 15, 1989

Amended Sections 2.5 **Guest House**, 2.7 **Height**, 4.2A, b, **Home Occupations**, 4.2B, e, **Licensing of Inns**, 6.6 **Minimum Setbacks**.

October 16, 1990

Article 12 - **Squibnocket Pond District** added.

April 27, 1992

Amended Article 11.7 (renumbered 11.6), Section C.2.a. **Roadside District Permitted Uses, roof heights** by Special Permit through Zoning Board of Appeals.

April 25, 1994

Amended Article 6, Section 6.7 **Flexible Siting**. Requirements for 150 feet between dwellings eliminated.

April 28, 1997

Amended Article 2: Definitions, adding Section 2.1.1. **Curved or Rounded Roof**; and amended Article 6, Section 6.2, **Height Limitations**, to include structures with a curved or rounded roof in the 13-foot height restriction, "eye-brow" dormers excepted.

April 6, 1998

Amended Article 2: Definitions, adding 2 Sections: 2.17 **Light Pollution** and 2.18 **Light Trespass**. Article 5, Section 3.B. amended to require shielded and downward lighting for signs and hours of illumination restrict to 11 p.m. Sections 5.5 through 5.8 contain **Outdoor Lighting** bylaws. (AG approval 10/98)

September 10, 1998

Temporary Amendment to Article 4 Section 1.C. by inserting the words “(except **communications towers**)” to allow the town time to draft appropriate restrictions and safeguards on the construction, use or operation within the town of public utility **communications towers** for a Special Town Meeting in January.

January 25, 1999

Added Section 20 to Article 2 Definitions to define **Wireless Communications Transmitter**. Amended Use Regulations Section 4.2.B.6. to cover **wireless communications tower** regulations. Amended Article 11: Adding H. to Intent Section 11.5, Subsection 5, Uses Allowed under Section 11.6.2.c. and 3. Uses not Permitted to both Sections 11.6.A. and 11.6.B.

April 26, 1999

Amended Article 4.2A.1.a. to change the minimum lot size to 3 acres in order to have a **Guest House** and added “e.” that requires an owner to live in the principal **Dwelling** for five years before requesting a permit for a **Guest House** and “f.” prohibiting the transfer of unused **Guest House** permits to new owners. Amended Article 11, (**Districts of Critical Planning Concern**) adding H. to Intent Section 11.5; Adding subsections 5.a., b. and c. to Permitted Uses - **Inland Zone** (Section 11.2.c) to allow **Swimming Pools & tennis courts** with conditions (a-c). Adding Sections. Item 3. Uses Not Permitted to 11.6.A (**pools or courts** within the **Shore Zone**) and B. (**Boundaries of Streams & Wetlands** draining into Coastal Great Ponds).

September 9, 1999

Amended Article 4: Section 4.2.A.1. (**Guest House**) as follows: Item c. to allow a shared septic system under certain conditions. Item e. An exception to the 5 year wait for a **Guest House** if the parcel contains 6 acres or more, has been owned for at least five years and the owner will covenant against any subdivision of the parcel.

January 18, 2000

Amended Article 7, adding 7.1 **Building Cap** bylaw. This temporary cap limits new **Dwelling** construction to 18 per year, plus a possible two for **Youth Lots**.

April 24, 2000

(Approved by the Attorney General on July 14, 2000)

Amended Article 11.6.A.2.b.(1) [Uses Allowed by Special Permit] by limiting the size of **additions** to house in the **Shore Zone** to 250 sq. feet. (This also applies to houses within 100 feet of Streams and Wetlands Draining into Coastal Great Ponds.)

September 25, 2000

(first advertised July 13, 2000; approved August 14, 2001)

Added **Conservation District** to Section 3.0.I and Section 3.1.I and Section 4.4 - Permitted Uses. *Approved by the Attorney General with the deletion of Section 4.4 A. on Dec. 22, 2000. Concerns Nomans Land Island.*

April 24, 2001

(first advertised on January 5, 2001; approved August 14, 2001)

1. Added Section 2.21- **Affordable Housing**. 2. Amended Section 2.5 to allow for rental beyond one calendar year if for **Affordable Housing**. 3. Amended Section 2.7 to include chimneys. 4. Amended Section 4.2 to reflect concern for a burden to the water supply in the area surrounding a **Swimming Pool**. 5. Amended Section 4.2.A.1.b. to clarify the 800 sf limit

on **Guest Houses**. 6. Amended Section 4.4 (**Nomans Land**) to reflect the possible dangerous conditions due previous military use and to move subsections "B,C,D,E". up to "A,B,C,D." (The original "A" was removed per the Attorney General's instructions.)

September 18, 2001

(First Advertised, June 29, 2001, July 6, 2001; approved December 21, 2001)

1. Amend Article 2, Section 2.15 (Definition of **Two-Family Dwelling**) and Section 2.16 (Definition of **One-Family Dwelling**) by adding a clause to the end of the current **Affordable Housing** definition.
2. Amend Article 4.2A.3 (**Swimming Pools and Tennis Courts**) Amending "c" and adding "f" & "g." (Ownership requirement and banning transfer of permits to new owners.)

April 22, 2002

(First advertised: Article 13, October 26, 2002, Article 14 January 4, 2002)

Added the following two overlay districts, Article 13: **Wild & Scenic North Shore Overlay District**. Article 14: **Menemsha, Nashaquitsa and Stonewall Ponds Overlay District**.

October 21, 2002

(First advertised August 23, 2002; approved January 16, 2003)

Amended Article 6 by adding Section 6.9 **Homesite Housing** and extended the **Building Cap** for another 3 years (see Section 7.1)

April 26, 2004

(First advertised November 28, 2003; approved July 12, 2004)

Amended: Section 2.12 to allow two lots to share a **Driveway**. Article 7, **Rate of Development** by adding D-H (incentives and exemption of **Homesite Housing** lots and **Affordable Rental Housing** from any **Building Cap** and **Rate of Development** restrictions).

September 27, 2004

(First advertised July 9, 2004; approved November 15, 2004)

Amended 1. Section 6.9 B. Definition of and allowing the leasing of land in the case where the land is held by the town or state, or by a non-profit entity [501c(3)] dedicated to developing **Affordable Housing**. Section 6.10 **Exception for Affordable Rental Housing** 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 entity dedicated to **Affordable Housing**.

September 26, 2005

(First advertised August 26, 2005; approved October 14, 2005)

Amended Section 7.1 **Building Cap**. Extended the **Building Cap** for another 3 years. Added the phrase "a **Homesite Lot**" in Section 7.1.D.2.g, amended Section 7.1.C.3.d "The footprint does not increase by more than 25% or 500 square feet, whichever is less."

October 29, 2007

(First advertised August 23, 2007; approved by the Attorney General, January 28, 2008)

Amended Section 4.2A.3, **Swimming Pool** and/or **Tennis Court**. Added "h. Heated **pools** are permitted if the heat is supplied by a solar thermal, a geothermal or an alternative, non-polluting system that is in accordance with Section 4.2A.3.d., i. A special permit shall be required for the installation of a **pool** heating system."

April 28, 2008

(First advertised October 11, 2007; approved by Attorney General, July 31, 2008)
Amended Article 2 Definitions Section 2.20 by deleting "Wireless Communications-Transmitter" and inserting "**Wireless Communications**" and inserting new definitions Section 2.20.1 - 2.20.5. Amended Article 4 Section 4.2B.6 by deleting the section in its entirety and replacing it with a new Section 4.2B.6 "**Wireless Communications Equipment and Facilities**" This amended **Wireless Communications** bylaw establishes a Committee to review a variety of **Wireless Communications** applications to ensure the Town's needs for safety and convenience are met.

April 27, 2009

(First advertised October 2008; approved by the Attorney General's Office, August 20, 2009)
Section 5.9 added **Exterior Mechanical Noise Abatement**

April 25, 2011

(First advertised October 2010; approved ATM April 2011; Approved by the Attorney General's Office, August 2, 2011)
Amended Section 4.2 A.3, **Swimming Pool and/or Tennis Court. Definitions, 2.22, swimming pool.**

April 22, 2013

(First advertised November 2012; Public Hearing December 17, 2012; approved ATM April 22, 2013; Approved by the Attorney General's Office, July 9, 2013)
Amended Article 6: Dimensional and Density Requirements, adding Section 6.11, **Residential Building Size Regulations.**

April 22, 2013

(First advertised November 2012; Public Hearing December 17, 2012; approved ATM April 22, 2013; Approved by the Attorney General's Office, July 9, 2013)
Amended Article 2: Definitions, adding Sections 2.23 **Detached Bedroom** & 2.24 **Total Living Area.**

April 22, 2013

(First advertised November 2012; Public Hearing December 17, 2012; approved ATM April 22, 2013; Approved by the Attorney General's Office, July 9, 2013)
Amended Article 4: Use Regulations, adding J. to Section 4.1, Agricultural-Residential District I, Permitted Uses (**Detached Bedroom**).

April 27, 2015

(First advertised November 20, 2014; Public Hearing December 8, 2014; approved ATM April 27, 2015; Approved by the Attorney General's Office, July 30, 2015)
Amended Article 2: Definitions, adding Sections 2.25 **Accessory Apartment** & 2.26 **Caregiver.**

April 27, 2015

(First advertised November 20, 2014; Public Hearing December 8, 2014; approved ATM April 27, 2015; Approved by the Attorney General's Office, July 30, 2015)
Amended Article 4.2A, Use Regulations: Accessory Uses, adding 9. **Accessory Apartments-** See Section 6.12.

April 27, 2015

(First advertised November 20, 2014; Public Hearing December 8, 2014; approved ATM April 27, 2015; Approved by the Attorney General's Office, July 30, 2015)

Amended Article 6: Dimensional and Density Requirements, adding Section 6.12, **Exception for Accessory Apartments-Privately Owned Properties.**

April 25, 2016

(First advertised October 9, 2015; Public Hearing October 26, 2015; approved ATM April 25, 2016, Article 31; Approved by the Attorney General's Office, May 24, 2016)

Amended Article 2: Definitions, adding Section 2.27 **Historic House**

April 25, 2016

(First advertised October 9, 2015; Public Hearing October 26, 2015; approved ATM April 25, 2016, Article 31; Approved by the Attorney General's Office, May 24, 2016)

Amended Article 4.2A, 1. Use Regulations: Accessory Uses, **Guest House** adding section g. regarding conversion of a **Historic House** into a **Guest House.**

April 25, 2016

(First advertised October 9, 2015; Public Hearing October 26, 2015; approved ATM April 25, 2016, Article 31; Approved by the Attorney General's Office, May 24, 2016)

Amended Article 6: Dimensional and Density Requirements, Section 6.11 Residential Building Size Regulations, Section B. Applicability and Exceptions, 3. Exceptions for Building Additions, adding d., regarding **Historic Houses.**

April 25, 2016

(First advertised November 26, 2015; Public Hearing December 14, 2015; approved ATM April 25, 2016, Article 32; Approved by the Attorney General's Office, May 24, 2016)

Amended Article 6, Section 6.9, regarding **Homesite Housing.**

April 24, 2017

(First advertised February 17, 2017; Public Hearing March 13, 2017; approved STM April 24, 2017, Article 1: Voted in 'conformance' by the Martha's Vineyard Commission, June 22, 2017) Amended Article 11: **DISTRICTS OF CRITICAL PLANNING CONCERN (OVERLAY DISTRICTS)**, Section 11.6 DESIGNATED AREAS, Section 11.6.A.2. by (1) re-numbering 11.6.A.2.b as 11.6.A.2.c;(2) re-numbering 11.6.A.2.c as 11.6.A.2.d;(3) adding an amended 11.6.A.2.b; and (4) amending subsection 11.6.A.2.d(4).

April 24, 2017

(First advertised February 17, 2017; Public Hearing March 13, 2017; approved STM April 24, 2017, Article 2: Received approval of the Attorney General on, July 31, 2017)

Amended Article 12: **SQUIBNOCKET POND DISTRICT**, Section 12.3 PERMITTED USES, Zone B by: (1) re-numbering 12.3.B.1.g as 12.3.B.1.h; and (2) adding to 12.3.B.1.g.

April 22, 2019

(First advertised November 30, 2018; Public Hearing December 17, 2018; approved ATM April 22, 2019, Article 31: Received approval of the Attorney General on August 2, 2019)

Created new Article 15: **Large-Scale Ground-Mounted Solar Photovoltaic Installation District.**

April 25, 2022

ATM Article 29: Amendments to Sections 6.1 & 6.9, first advertised October 15, 2021 (Section 6.9) and January 7, 2022 (Section 6.1); Public Hearings held November 8, 2021 (Section 6.9) and January 24, 2022 (Section 6.1); approved at ATM April 25, 2022, Received approval of the Attorney General on July 18, 2022: In section 6.1, added the phrase "or Homesite Housing Lots and Youth Lots" to both A. & B. of the Zoning Bylaws. In section 6.9, B., 3., eliminated phrase "but not less than one (1) acre" of the Zoning Bylaws.

ATM Article 30: Amendments to Sections 2 (adding a new definition 2.28) & 4.2A, 3, first advertised November 5, 2021; Public Hearing held November 22, 2021; approved at ATM April 25, 2022, Received approval of the Attorney General on July 18, 2022: Added a definition for Tennis Court in Article 2 of the Zoning Bylaws and clarified the wording in Article 4, section 4.2A, 3. of the Zoning Bylaws.

April 24, 2023

ATM Article 27: Amendments to Section 4.2A, 3. to replace the existing section "Swimming Pools and/or Tennis Court" with new text, first advertised Sept. 2, 2022 and a second time on Sept. 9, 2022; Public Hearings held September 26, 2022, Oct. 11, 2022, Nov. 14, 2022, Nov. 28, 2022 and closed on Dec. 12, 2022; approved at ATM April 24, 2023; Received **partial approval** by the Attorney General on Nov. 6, 2023: changes included the elimination of 4.2A, 3., g.

Article 1: PURPOSE

Section 1.0 The purpose of this bylaw is to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Chilmark by:

- A. encouraging the most appropriate use of land,
- B. preventing overcrowding,
- C. conserving the value of land, buildings and the rural nature of the Town,
- D. preventing traffic congestion and promoting traffic safety,
- E. preventing undue concentration of population,
- F. reducing fire and other hazards,
- G. preventing undue pollution of air, ground and water, and
- H. conserving the unique natural, historical, ecological, cultural, scenic and other values of the Town.

Article 2: DEFINITIONS

Accessory Building

Section 2.0 Any building customarily accessory and incidental to a permitted principal building.

Barn

Section 2.1 A structure erected for the storage of farm products and the sheltering of farm animals.

Curved or Rounded Roof

Section 2.1.1 A roof with no ridge

Dwelling

Section 2.2 A structure used in whole or in part for human habitation. A dwelling does not include a mobile home, however mounted, trailer or similar transportable facility.

Flat or Shed Roof

Section 2.3 A roof, any segment of which has a rise of less than four (4) inches in each foot or the ridge of which lies within a distance from either opposing wall supporting the roof of not more than twenty-five (25) percent of the distance between those walls.

Gabled or Hip Roof

Section 2.4 a roof, each segment of which has a rise of at least four (4) inches in each foot and the ridges of which lie within the middle fifty (50) percent of the distance between the opposing walls supporting the roof.

Guest House

Section 2.5 A subordinate dwelling in common ownership with the principal dwelling on the same lot. The main function of the guest house is to provide accommodation for guest or tenants, limited to not more than one family, of the occupants of the principal dwelling. The only exception to this regulation is that the owner of the property may live in the guest house and use the principal dwelling for guests or tenants. In either case, no agreement or arrangement allowing occupancy of the principal dwelling or the guest house shall provide for (i) a right of occupancy extending beyond one calendar year, (ii) renewal of the occupancy for any additional period of time; or (iii) any payment or financial obligation attributable to any period of time extending beyond one calendar year, except that such an agreement or arrangement will be allowed if it is for the purpose of providing affordable housing for a family as defined in section 2.17. Such an affordable housing tenancy shall continue only so long as the tenants qualify for affordable housing.

Lot

Section 2.6 A parcel of land in one ownership, with definite boundaries, occupied or suitable to be occupied for a certain use.

Maximum Height

Section 2.7 The distance between the highest point of the structure, including railings of roof decks (excluding radio and television antennas, chimneys, flag poles and similar slender structures) and the mean of the natural ground level on the perimeter of the proposed structure.

Segment

Section 2.8 Any continuous line of a roof other than the ridge. Any dormer or similar interruption in a roof line shall be considered a separate segment.

Silo

Section 2.9 A structure erected for the storage of ensilage.

Structure

Section 2.10 A combination of materials assembled at a fixed location to give support or shelter, or act as a barrier. A structure includes any building. A fence or wall over four (4) feet height shall be considered to be a structure; an open terrace not more than three (3) feet above grade level shall not be considered a structure.

Floor Area

Section 2.11 The area of a building or structure determined by adding all horizontal areas of the several floors above grade level having a height clearance of six (6) feet or more, as measured from the interior faces of the exterior walls.

Driveway

Section 2.12 An area of a lot that is designed and intended to provide for the passage of one or more vehicles to and from a road or way. Two adjacent lots may be accessed by a common driveway.

Use, Principal

Section 2.13 The main or primary purpose for which a lot and a building or structure thereon are designed, intended or arranged to be used.

Use, Accessory

Section 2.14 A use of a lot and a building or structure thereon normally incidental to the permitted principal use of the lot.

Two-Family Dwelling

Section 2.15 A dwelling divided into two separate habitable units each of which has a separate entrance, kitchen and toilet, each of which unit is designed, built, and used for occupancy, primarily by one and the same family except that when such family is not in occupancy not more than one other family during any one time period may occupy each unit, provided that no agreement or arrangement allowing such occupancy by other than the principal occupying family shall provide for (i) a right of occupancy extending beyond one calendar year, (ii) renewal of the occupancy for any additional period of time; or (iii) any payment of financial obligation attributable to any period of time extending beyond one calendar year except that such agreement or arrangement will be allowed if it is for the purpose of providing affordable housing for a family as defined in Section 2.17. Such an affordable housing

tenancy shall continue only so long as the tenants qualify for affordable housing.

One-Family Dwelling

Section 2.16 A dwelling, having no more than one principal entrance and one kitchen, designed, built and used for occupancy primarily by one and the same family except that when such family is not in occupancy, not more than one other family during any one time period may occupy dwelling; provided that no agreement or arrangement allowing such occupancy by other than the principal occupying family shall provide for (i) a right of occupancy extending beyond one calendar year, (ii) renewal of the occupancy for any additional period of time; or (iii) any payment of financial obligation attributable to any period of time extending beyond one calendar year except that such agreement or arrangement will be allowed if it is for the purpose of providing affordable housing for a family as defined in Section 2.17. Such an affordable housing tenancy shall continue only so long as the tenants qualify for affordable housing.

Family

Section 2.17 One or more persons related by blood, adoption or marriage, living and cooking together as a single, non-profit housekeeping unit, provided that no more than six persons unrelated by blood, adoption or marriage so living together shall be deemed a family.

Light Pollution

Section 2.18 Man-made light which radiates into the nighttime sky.

Light Trespass

Section 2.19 Man-made light spilling from one property onto another.

Wireless Communications 2.20

Section 2.20.1 **Antenna** means the device from which radio frequency emissions are transmitted and received to and from free space.

Section 2.20.2 **Antenna Support** means any device which may support an Antenna, which includes such means as existing buildings, towers, masts, poles and the like.

Section 2.20.3 **Base Station** means the equipment for one or more wireless services installed at a site to propagate and receive wireless communications.

Section 2.20.4 **Base Station Facility** means the place within which one or more wireless services install equipment to support the operation of an antenna system.

Section 2.20.5 **Chilmark Plan Review Committee** means a special committee, the members of which are the members of the Planning Board, the members of the Zoning Board of Appeals and a member appointed by the Board of Selectmen, who may be a Selectman.

Affordable Housing

Section 2.21 Housing for a single person or family qualified for low cost housing under the guidelines adopted by the Town of Chilmark, or in the absence of such guidelines, under the guidelines of the Dukes County Regional Housing Authority. The monthly rental for such housing shall comply with applicable standards.

Swimming Pools

Section 2.22

For the purposes of this Bylaw, a Swimming Pool shall be defined as any structure, basin, chamber or tank which is intended for swimming, diving, recreational bathing or wading and which contains, is designed to contain, or is capable of containing water more than 42 inches deep at any point and has an area of 100 square feet or more.

Detached Bedroom

Section 2.23

A bedroom not directly connected to a Dwelling; it may be a free standing building or part of some other Structure such as a Garage. It shall be included in all considerations as to the adequacy of the septic system of the Dwelling and may contain plumbing in the bathroom only, including one hand sink, one toilet and one bathtub/shower, but not a stove or refrigerator.

The Maximum Floor Area of a Detached Bedroom shall not exceed 400 square feet, which shall include any roof-covered area enclosed by walls or screening.

Total Living Area

Section 2.24

Total Living Area means the aggregate area of all habitable space, which is generally based on the sum of the exterior dimensions of each above-grade level of a structure but does not include decks or porches, even if roof-covered or enclosed by walls or screening. The measurement includes all Dwellings and Accessory Structures, or portions thereof, that are habitable. It also includes indoor swimming pools; indoor tennis, squash or similar courts; and similar indoor facilities.

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.

Caregiver

Section 2.26

"Caregiver" is an adult who resides on site for the purpose of caring for an elderly, chronically sick or disabled person.

Historic House
Section 2.27

“Historic House” means any one of the historic structures listed in the Appendix to the 1985 Chilmark Master Plan (as may be amended from time to time), which is classified as either “Pre-Revolutionary” or “Federal and Greek Revival Eras to Civil War”. Any addition to an Historic House completed after 1980 shall not be considered part of the Historic House.

Tennis Court
Section 2.28

Tennis court includes pickle ball, platform tennis and a similar sports court.

Article 3: ESTABLISHMENT OF DISTRICTS

TYPES OF DISTRICTS

Section 3.0 For the purposes of this Bylaw the Town of Chilmark is divided into the following types of districts:

- A. Agricultural-Residential District I
- B. Agricultural-Residential District II-A
- C. Agricultural-Residential District II-B
- D. Agricultural-Residential District III
- E. Agricultural-Residential District IV
- F. Agricultural-Residential District V
- G. Agricultural-Residential District VI
- H. Squibnocket Pond District (District VI Overlay District)
- I. Conservation District

LOCATION OF DISTRICTS

Section 3.1

- A. The Agricultural-Residential District I shall be bounded and described as follows:
Beginning at the point where the Chilmark-West Tisbury town line reaches the Atlantic ocean; thence
Northwesterly by said town line to the North Road; thence
Southwesterly by the North Road to Tabor House Road; thence
Southeasterly by Tabor House Road to the Middle Road; thence
Northeasterly by the Middle Road to Meeting House Road; thence
Southeasterly by Meeting House Road to the State Highway (South Road); thence
Northeasterly by the State Highway (South Road) to the northeast corner of land of Edna Robinson on the southerly side of said State Highway; thence
Easterly by Quenames Lane¹ to the head of Wade's Cove; thence
Southerly by the easterly shore of Chilmark Pond to the barrier beach and by the westerly boundary line of Walton's Beach Lot (No. 35) to the Atlantic Ocean; thence
Easterly by the Atlantic Ocean to the Chilmark- West Tisbury town line and the place of beginning.
- B. The Agricultural- Residential District II-A shall be bounded and described as follows:
Beginning at the point were the Chilmark-West Tisbury Town line intersects the North Road; thence
Southwesterly by the North Road to the point where the North Road meets the southwesterly boundary of land of Gregory J. Sullivan et ux described in a deed recorded in Dukes County Registry of Deeds in Book 284, Page 52; thence
Northerly by said Sullivan land to the southwesterly boundary of land of Prospect Hill Realty Trust (Land Court Plan 16738A), and continuing westerly, northerly and northeasterly by said Prospect Hill Realty Trust land to land of Daniel Lang described in a deed recorded in said Registry in Book 232, Page 547 and a stone wall; thence
Northwesterly by said stone wall by said Lang land and land of other owners until said wall reaches the waters of Vineyard Sound; thence
Northeasterly by the waters of Vineyard Sound to the point where the Chilmark-West Tisbury town line reaches Vineyard Sound; thence Southeasterly by said town line to the point of the beginning.

¹ a.k.a. Wade's Field Lane on Assessors Map dated June 15, 1980

- C. The Agricultural-Residential District II-B shall be bounded and described as follows:
Beginning at the point where the boundary line between land of the Estate of Lucinda Vincent and land now or formerly of Raushenbush (Land Court Plan 15557A) reaches the Atlantic Ocean; thence
Northwesterly by said boundary line to the State Highway (South Road); thence
Northeasterly by the State Highway (South Road) to the northeast corner of land of Edna Robinson on the southerly side of said State Highway; thence
Easterly by Quenames Lane to the head of Wade's Cove; thence
Southerly by the easterly shore of Chilmark Pond to the barrier beach and by the westerly boundary line of Walton's Beach lot (No. 35) to the Atlantic Ocean; thence
Westerly by the Atlantic Ocean to the place of beginning.
- D. The Agricultural- Residential District III shall be bounded and described as follows:
Beginning at the intersection of the North Road and the Menemsha Cross Road; thence
Northeasterly by the North Road to Tabor House Road; thence
Southeasterly by Tabor House Road to the Middle Road; thence
Northeasterly by the Middle Road to Meeting House Road; thence
Southeasterly by Meeting House Road to the State Highway (South Road); thence
Southwesterly and northwesterly by the State Highway (South Road) to Beetlebung Corner;
thence
Northwesterly by the Menemsha Crossroad to the place of beginning.
- E. The Agricultural-Residential District IV shall be bounded and described as follows:
Beginning at the intersection of the North Road and the Menemsha Crossroad; thence
Southwesterly by the North Road to the Chilmark-Gay Head town line; thence
Northerly and northwesterly by said town line to the shores of Vineyard Sound at Menemsha Inlet; thence
Northeasterly by the shores of Vineyard Sound to the northwesterly corner of Agricultural-Residential District II-A as herein above described; thence
Southeasterly by the southwesterly boundary of said Agricultural-Residential District II-A to the North Road; thence
Southwesterly by the North Road to the point of beginning.
- F. The Agricultural-Residential District V shall be bounded and described as follows:
Beginning at the intersection of the North Road and the Menemsha Crossroad; thence
Southeasterly by the Menemsha Crossroad 500 feet to a point; thence
Southwesterly by a straight line to the bound at the northwesterly corner of land now or formerly of Robert G. Walter et ux described in a deed recorded with Dukes County Registry of Deeds in Book 231, Page 572; thence
Northwesterly by a straight line to the intersection of Basin Road and the North Road; thence
Northeasterly by the North Road to the point of beginning.
- G. The Agricultural-Residential District VI shall comprise the entire balance of the town and shall be bounded and described as follows:

Beginning at the Southwesterly corner of Agricultural-Residential District IV as above described; thence
Northeasterly by the southerly boundary of said Agricultural-Residential District IV to the northwest corner of Agricultural-Residential District V as above described; thence

Southeasterly and northeasterly by the southwesterly and southeasterly boundaries of the Agricultural-Residential District V as above described to the Menemsha Crossroad at the southwesterly boundary of Agricultural-Residential District III as herein above described; thence
Southeasterly by the said boundary of Agricultural-Residential District III, and by the southwesterly boundary of Agricultural-Residential District II-B, as herein above described to the shores of the Atlantic Ocean; thence
Southwesterly, westerly and northwesterly by the shore of the Atlantic Ocean to the Chilmark-Gay Head town line; thence northerly, easterly, northerly, northeasterly and northwesterly by said town line to point of beginning.

- H. The Squibnocket Pond District (District VI Overlay District) shall be bounded and described as follows:
Beginning at the point where the Chilmark-Gay Head town line intersects State Road; thence
Easterly by State Road to Squibnocket Road; thence
Southerly by Squibnocket Road to a point of mean high water on the shore of the Atlantic Ocean; thence
Westerly along mean high water of the Atlantic Ocean to the point where the Chilmark Gay Head town line intersects the beach; thence
Northerly along the Chilmark-Gay Head town line to the point of the beginning.
- I. The Conservation District shall be described as follows: All of the Island known as Nomans Land as shown on the USGS Survey Map titled Squibnocket Quadrangle.

ZONING MAP

Section 3.2

The boundaries of each district described above are shown on the map entitled Zoning Map of the Town of Chilmark, or as hereafter amended, which is attached to and made a part of this bylaw. This map shall be filed in the custody of the Town Clerk of Chilmark and may be examined by the public, subject to any reasonable regulations established by the Town Clerk. Zoning district boundary lines shown on this map may be changed only by the adoption of an amendment to this bylaw.

Article 4: USE REGULATIONS

Section 4.0 Except as the Board of Appeals may grant a variance from the provisions of this Zoning Bylaw, no building or structure shall be constructed, and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district and so authorized. All uses not specifically permitted shall be considered to be prohibited.

AGRICULTURAL-RESIDENTIAL DISTRICT I

Permitted Uses

Section 4.1

- A. Detached one-family dwelling.
- B. Storage on a lot of one or more boats.
- C. Religious, educational, municipal, and governmental or public utility structure or area.
- D. Public Parks, playgrounds, or recreation buildings, for recreation or community use, not for profit.
- E. Renting of rooms or furnishing of board to not more than three (3) people by a family resident in the dwelling.
- F. Farm, barn or silo, riding stable, nursery, including the display and sale of natural products usually sold by farms or nurseries, and the raising of stock, and the storage of equipment used in connection with such uses.
- G. Use of premises or structures for fishing, shell fishing or agriculture; or work related directly or indirectly thereto.
- H. A garage (attached or detached for no more than three cars) and other accessory structures such as a pump house or tool shed.
- I. A shed roof dormer may be added to a dwelling with a gable roof existing before March 1976, provided that the length of the dormer is no more than 75% of the distance of the roof segment parallel to the ridge and the dormer spans no more than 75% of the distance of the roof segment between the ridge and eave. The pitch of such shed roof dormer shall have a rise of no less than two inches in each foot.
- J. One Detached Bedroom.

USES WHICH MAY BE SPECIALLY PERMITTED BY THE BOARD OF APPEALS

Section 4.2 The Board of Appeals may, after notice and hearing as provided in Article 9 of this bylaw, grant a special permit to conduct a use as herein specified, provided that if such use involves the erection or placement of a building or structure the applicant shall submit to the Board plans and other data showing to the satisfaction of the Board that the site preparation and location of the proposed building or structure will preserve and enhance existing large trees, large exposed boulders, water course, hills and other natural features as well as vistas, water views and historic locations and will minimize the intrusion of the building or structure into the character of the existing development in the area and will not unduly burden the water supply for surrounding area as determined by the Board of Health and the Conservation Commission.

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.

1. **Guest House**, provided that:
 - a. The lot on which the principal dwelling and the accessory dwelling are located contains a minimum area of land of (3) acres,
 - b. The maximum floor area of the accessory dwelling shall not exceed 800 square feet, which shall include any roof-covered area enclosed by walls or screening.
 - c. Soil percolation tests and location of a septic system for the exclusive use of the accessory dwelling shall be approved by the Board of Health prior to granting of a special permit by the Board of Appeals. If the applicant illustrates to the satisfaction of the Board of Health through the submission of suitable drawings prepared by a Professional Engineer or Registered Sanitarian, that a septic system can be permitted in full compliance with all applicable regulations to serve the guest house only, then the applicant may substitute in place of said guest house septic system, connection to a common septic system on a single parcel of land. Said common septic system must also be in full compliance with all applicable rules and regulations of the Board of Health and any other Board which may have regulatory power, and
 - d. A covenant against the lot shall be recorded in the registry of deeds prohibiting any subdivision of the lot on which an accessory dwelling is specially permitted unless the minimum acreage for each subdivided lot conforms to the minimum lot size for the district in which the lot is located as provided in the bylaw.
 - e. The owner must own the principal dwelling for five years before a guest house maybe built.

Exception: On a parcel of land containing a minimum of six (6) acres held in continuous ownership for at least five (5) years, a guest house may be built within five (5) years of the principal dwelling construction if the owner thereof covenants against any subdivision of the parcel.

- f. permits for unbuilt guest houses may not be transferred to new owners.
- g. An Historic House may be converted into or used as a Guest House (even if it exceeds 800 square feet) provided it meets the above requirements (a) through (d). [See section 6.11.B.3.d. Applicability to Historic Houses.]

2. The use of a portion of a dwelling or any accessory building by the owner and occupant for the pursuit of a home occupation, which term shall be construed to mean any activity which results in a product of service of the sale of the same, which is carried on in a residence or accessory building and meets all the following requirements:
 - a. The use is clearly secondary to the use of the dwelling for dwelling purposes.
 - b. Not more than one-third of the area of one floor of the dwelling structure is used for such uses, and the total ground coverage of areas within the dwelling and other buildings or structures accessory thereto used for such uses shall not exceed 1,500 square feet.
 - c. No part of any building built after the adoption of this bylaw used wholly or in part for such uses shall be situated within 200 feet of the front line or of a road or way open to or used by the Public, or within a distance equal to one half of the depth of the lot if the depth of the lot be less than 400 feet. This setback area and the front yard area of any existing dwelling shall not be used for any parking, sales, storage, display or other use connected with any home occupation.
 - d. Trees, shrubs and natural growth shall be left uncut within 50 feet, or within a distance consisting of 12.5 percent of each dimension of the lot, if that be less than 50 feet of the front, back and all side lines of the lot.
 - e. Sufficient parking spaces to accommodate in all normal conditions the cars of occupants, employees, customers, and visitors of the premises shall be provided behind the rear line of the principal dwelling and shall, if visible at normal eye level from any point on an abutting lot, be screened with a substantially sight-impervious screen of evergreen foliage which will reach a height of eight feet in three years.
 - f. All outdoor storage, loading and service areas must be screened from the view of the public road and adjacent residences with a substantially sight-impervious screen of evergreen foliage.
 - g. No odors, dust, fumes, glare or any noise audible at the lot lines in amounts exceeding those normal to residential use, will be made or created by any use on the premises.
 - h. Such use must not cause or contribute to any erosion of the land or increase surface water drainage from the lot.
 - i. Such use must not cause any pollution of the water or air.

- j. No external change shall be made which alters the residential appearance of the buildings and structures on the premises and new structures for such use shall conform in appearance and in exterior materials to the residential character of the neighborhood.
- k. Site preparation and location of structures must preserve and enhance existing large trees, water courses, hills and other natural features as well as vistas, water views and historic locations and must minimize the intrusion into the character of existing development in the area.
- l. Any use permit issued under this bylaw shall be revocable should any provision of this bylaw not be met. A permitted use shall be limited in time for a period no longer than the period of occupancy or ownership, whichever is shorter, of the premises by the applicant or heirs of the applicant.

3. Swimming Pool and/or Tennis Court.

Swimming pools and tennis courts are considered accessory to the use of a principal dwelling. The Town 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 in the Massachusetts Building Code. In addition, a Special Permit is required for a swimming pool or a tennis court from the Zoning Board of Appeals 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 a 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 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:** A swimming pool or tennis court permitted under this Section may only be used 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. Setback relief may be available under Section 6.6.

- e. **Access and Enclosure:** 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. **Line of Sight Observation:** A pool must be situated so as to provide a clear and direct line of sight to the entire pool area (not dependent upon a closed circuit camera or other equipment enabling remote observation) from a highly used room or place 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 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.
- h. **Energy Use:** If a swimming pool is heated, applicants are strongly encouraged to use:
 - a. an energy efficient heating system, including on-site solar thermal or a heat pump system; and
 - b. a powered pool cover to conserve energy and provide additional safety.
- i. **Light:** The swimming pool or tennis court must comply with sections 5.5, 5.6 and 5.7 of these Zoning Bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts must not be lighted.
- j. **Noise:** 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. **Landscaping and Visibility:** 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

television interference) shall be corrected within 60 days or, failing that, dismantled within 30 days. Such action to be subject to approval of the Board of Appeals.

5. **Unlicensed Vehicles.** The outdoor storage of not more than two (2) unlicensed vehicles (other than farm vehicles) on a lot provided that no such vehicle is within 50 feet of any boundary line of the lot and that if any one of such vehicles is visible from any point on a way used by the public, public land, or abutting lot, the vehicles will be screened with a substantially sight-impervious screen of evergreen foliage which will reach a height of eight feet in three years.
6. **Conversion of a Barn.** Conversion of a barn which existed before January, 1973 to a single family guest house, provided that:
 - a. It conforms to all conditions for a guest house in section 4.2 A, except that it may exceed the floor area limitation.
 - b. The converted barn shall be the only guest house accessory to the main dwelling and no additions shall be allowed.
 - c. The visual character of any part of the barn which is in the public view shall be retained.
7. **Room Rentals or Bed and Breakfast Accommodations.** Room rentals or bed and breakfast accommodations for more than three (3) people in a dwelling are subject to the following provisions:
 - a. The use shall be clearly secondary to the use of the dwelling as the primary residence of the owner and/or occupant and shall not alter the residential character of the neighborhood.
 - b. Accommodations shall be limited to not more than six (6) overnight guests and the number of rooms to be rented shall not exceed three (3).
 - c. Breakfast service shall be operated for only overnight guests.
 - d. Parking areas shall be located and screened with dense natural vegetation so as to minimize noise and visual intrusion upon neighbors and roadsides.
 - e. The owner of a dwelling renting rooms to more than three (3) persons shall be required to be licensed annually by the Board of Selectmen after approval by the Board of Health, the Fire Department and the Building Inspector. The use shall be limited in time to the period of occupancy of the licensee.
 - f. The owner of a dwelling who has rented rooms to more than three (3) persons prior to the adoption of this bylaw may continue to rent the number of rooms rented in 1987, but shall

be licensed as described above and shall conform to the other requirements of this bylaw as far as is possible within the lot where the dwelling is located.

8. **Satellite dishes** may be installed providing they are either located in such a way or screened with dense natural vegetation so that they are not visible from public or private ways or from neighbors' dwellings.
9. **Accessory Apartments** – See Section 6.12

NON-ACCESSORY USES

Section 4.2B Non-accessory uses specified below which are not accessory to a permitted use may be permitted subject to the following conditions:

1. A private club , not conducted for profit, a gasoline station, a boat storage and repair or boat building facility, an aquacultural development facility, a marine biological station, a museum, swimming pool, laundromat, tennis courts, non-profit skating rink, boat railway and ramps, practice of a recognized profession, provided:
 - a. A determination of need or usefulness to the residents of the Town is made by the Board of Appeals,
 - b. It is the opinion of the Board that such use will not have a material detrimental effect upon, or be inconsistent with the established and future character of the neighborhood and the Town,
 - c. Any such building or structures shall be faced on the exterior with wood or clay brick, and
 - d. Any other conditions or safeguards deemed necessary to protect the surrounding neighborhood shall be imposed by the Board of Appeals.
2. Conversion of a one-family dwelling existing on January 15, 1973, into a two-family dwelling.
3. Conversion of a barn over 24 feet in height, existing on January 15, 1973, into a single family dwelling.
4. Removal of gravel, loam, sand and stone provided that:
 - a. The Board may restrict the depth and extent of the removal and the distance of the removal from abutting lots in order to insure that such removal will not cause subsidence of any such lots.
 - b. If the operation is to continue for more than one year, the area of such removal shall be screened by any method, such as plantings or fencing, as approved by the Board, and

- c. When such removal operation has been completed, or abandoned for two years, the area of removal shall be graded and restored to a slightly condition and planted with soil improving plants, with a permanent cover crop or reforestation.
5. An inn, subject to the following:
- a. Such a business must be located on a site comprising not less than ten (10) acres,
 - b. No building or structure used in connection with such business shall be located nearer than 400 feet from any way used by the public,
 - c. The facilities shall be limited to accommodations for not more than thirty (30) overnight guests in any arrangement of single and double rooms,
 - d. Facilities must be operated for the service of at least two meals to all overnight guests,
 - e. Trees, shrubs and natural growth shall be left uncut within 100 feet of all lot lines, and
 - f. An inn shall be licensed annually by the Board of Selectmen after approval by the Board of Health, Fire Department and Building Inspector.
 - h. These requirements apply to the renting of rooms to more than six (6) people.
6. Wireless Communications Equipment and Facilities, subject to the following:
- a. Purpose: The purpose of this provision is to balance the need for the safety and convenience of wireless communications with the Town's desire to preserve the rural nature of the Town as set forth in its Master Plan.
 - b. Applicants seeking approval for any wireless communications Antenna, Antenna Support, Base Station or Base Station Facility shall comply with the following:
 - 1) If feasible, any Wireless Communications Antenna shall be located on existing telecommunications facilities or other suitable existing Supports. The applicant shall submit documentation of the legal right to install and use the proposed Antenna Support. Otherwise, the applicant shall have the burden of proving that a good faith effort has been made to so locate and that it is not feasible to locate on an

existing Support. Failure to meet this burden shall be grounds for denial of the application. Any owner of an existing Antenna Support, which currently supports an Antenna, must provide appropriate space on a reasonable and non-discriminatory basis or documentation from an impartial expert stating the reasons for not allowing the applicant to share the Antenna Support. All wireless communications Antennas, Antenna Supports, Base Stations and Base Station Facilities built in Chilmark shall be constructed to accommodate additional providers and the owners must make the Support available for use by other wireless communications providers on a reasonable and non-discriminatory basis.

- 2) All applications shall be completed on a form provided by the Town. Such form shall contain an agreement indemnifying the Town from all legal liability resulting from the construction and operation of the wireless communications Antenna, Antenna Support, Base Station or Base Station Facility. The form shall be signed by an individual authorized to execute a binding indemnification.
- 3) All applications shall contain the following information and supporting documentation:
 - a) Inventory of the applicant's existing Antenna Support, Base Station and Base Station Facility sites, including but not limited to specific information about the location, height and design of each Antenna Support:
 - b) The availability of suitable, pre-existing Antenna Supports or other structures in Chilmark and abutting towns:
 - c) A scaled site plan and elevation view for any proposed Antenna Support, Antenna Base Station, Base Station Facility or any combination thereof:
 - d) A copy of all FCC licenses for the provision of wireless services and related communications links (if any) that the applicant intends to operate
 - e) Such additional information as may be relevant to the factors listed in 4)b) below.
- 4) Permitting for Antennas, Antenna Supports, Base Stations and Base Station Facilities.
 - a) There is hereby created a Chilmark Plan Review Committee, the members of which shall be the members of the Planning Board, the members of the Zoning Board of Appeals and a member appointed by the Board of Selectmen, who may be a Selectman.
 - b) The Chilmark Plan Review Committee may issue a special permit for any proposed Antenna, Antenna Support, Base

Station, Base Station Facility, and modifications made to existing Antenna, Antenna Support, Base Station, Base Station Facility, or combination thereof by a two-thirds (2/3) vote of the membership of such committee in accordance with the following procedures:

1. A joint public hearing by the Site Review Committee and the Chilmark Plan Review Committee shall be held for the applicant to present the proposed Antenna, Antenna Support, Base Station or Base Station Facility plan;
2. Recommendations from the Site Review Committee shall be submitted to the Chilmark Plan Review Committee;
3. The Chilmark Plan Review Committee shall provide a written opinion explaining its decision. Such decision shall consider and be based upon the following factors:
 - a. Height and type of proposed Antenna and its Support;
 - b. Visibility of the Antenna and its Support in the view shed of any property owner(s);
 - c. Need for reception in the area;
 - d. Proposed location(s) versus possible alternate location(s);
 - e. Ability to mask the nature of the Antenna Support;
 - f. The number of Antennas involved in the system and in any particular area;
 - g. Intrusion of the Antenna or its support above the ridge lines or in public views;
 - h. Distance from any residence or public building property line of the Antenna Support;
 - i. Compliance with all applicable Town regulations for structures, except for setbacks along public or private ways;
 - j. The maximum level of radio frequency (RF) output of any Antenna, Base Station or Base Station Facility;
 - k. Ability of the applicant to financially and functionally provide and maintain the proposed system;
 - l. Proposed location of any Antenna or Antenna Support in the Roadside or Coastal Districts.

c) The terms of the special permit may take into account the written recommendations of the Site Review Committee. The Chilmark Plan Review Committee may require the applicant to agree to conditions for the issuance of the special permit.

- 5) Height. The maximum height of any Antenna or Antenna Support shall be determined by the Chilmark Plan Review Committee taking into account all of the factors listed in 6.b.4)b)3. but not greater than seventy (70) feet above the preconstruction natural grade unless a greater height is

- permitted by a three-fourths (3/4) vote of the Chilmark Plan Review Committee membership.
- 6) Fencing. Climbing access to any Antenna Support shall be limited by either the installation of a six (6) foot high fence with locked gate or by limiting climbing apparatus to no lower than fifteen (15) feet above ground.
 - 7) Lighting. An Antenna Support shall not be illuminated except as required by the FAA or other applicable Federal or State agencies.
 - 8) Testing. After transmission begins, the owner(s) of any Antenna, Base Station or Base Station Facility shall pay for an independent consultant, selected by the Town, to conduct a test to monitor the compliance of the installation with federal and state radio frequency emissions regulations by any facility site's primary Antennas as well as from repeaters (if any). The independent consultant shall prepare and execute a protocol satisfactory to the Chilmark Plan Review Committee and specific to each facility for evaluating that facility's compliance with such regulations. A report of the compliance test shall be prepared by the independent consultant and submitted to the Chilmark Zoning Officer and the Chilmark Plan Review Committee within thirty (30) days of completion of the testing. Any modification of an existing facility, or the activation of any additional permitted channels, shall require new monitoring. The Chilmark Plan Review Committee may revoke any permit for equipment which does not pass the required testing until such time as it does past the test.
 - 9) At any time thereafter if the Chilmark Zoning Officer has reasonable cause to question the compliance of any installation with radio frequency emissions regulations, he may require the applicant to provide substantiation of such compliance in accordance with the procedure in Section 8) above and shall furnish the report of compliance or non-compliance to the Chilmark Plan Review Committee. If state or federal regulations are not met, the wireless communications Antenna, Base Station or Base Station Facility shall cease to operate immediately and up until such time as such installation passes such standards as contained in a subsequent written report of the independent consultant.
 - 10) Noise. Wireless communications equipment shall be essentially noiseless at the property line of the equipment or facility, provided that an emergency generator servicing such equipment or facility may emit noise no greater than fifty (50) dBA. Any violation of this excessive noise provision must be corrected within five (5) business days of notice to the provider by the Chilmark Zoning Officer. The Chilmark Zoning Officer shall immediately report any failure to correct such excessive noise violation to the Chilmark Plan Review Committee.

- 11) Term. All permits issued under this bylaw shall be for a term not exceeding ten (10) years. At the end of such term as contained in the permit, the permit shall automatically expire unless renewed in accordance with Section 6.b.4) above.
- 12) Abandonment and Disassembly. Any wireless communications equipment which becomes damaged to the extent of being a public hazard, for which a permit has expired or been revoked, or which ceases to operate for one year or more shall be considered abandoned and must be disassembled at the direction of the Town and at the expense of the owner/operator. Before any permit is issued, every owner/operator of a wireless communications Antenna, Antenna Support, Base Station or Base Station Facility may be required to post and maintain a bond with the Town of Chilmark to cover such costs. The Chilmark Plan Review Committee shall determine the amount of the bond and approve the company that will issue the bond.
- 13) Exceptions. This bylaw shall not apply to:
 - a) An amateur radio or television Antenna not licensed for any commercial use.
 - b) FCC approved devices containing Antennas sold to consumers in the mass market for their use.

**AGRICULTURAL-RESIDENTIAL DISTRICTS II-A, II-B, III, IV, V and VI
PERMITTED USES**

Section 4.3 The permitted uses, and uses which may be specially permitted by the Board of Appeals shall be the same as those prescribed for Agricultural-Residential District I

CONSERVATION DISTRICT PERMITTED USES

Section 4.4 In the conservation District, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and due to the fragile nature of the area, no land shall be used for any purpose except as follows:

- A. Conservation of soil, water, plants and wildlife.
- B. Maintenance of the existing Luce Family Cemetery, and of ways or paths provided that a vegetative cover is maintained in such ways.
- C. Maintenance of existing open areas, subject to such monitoring as may be required by the Conservation Commission.

- D. Selective clearing of new areas to establish or protect natural wildlife habitat and to protect or maintain rare and endangered species may be permitted by an Order of Conditions issued by the Conservation Commission.

Article 5: SIGNS AND OUTDOOR LIGHTING

SIGNS

Section 5.0 No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure except as specifically permitted in this Section.

PERMITTED USES

Section 5.1

- A. No more than one sign on a lot which shall not exceed a total area of three (3) square feet for identification of the property or place or the nature of any accessory use of a dwelling or accessory building.
- B. No more than one sign for directional purposes in connection with any one lot, which sign shall not exceed a total of three (3) square feet.
- C. No more than one "For Sale" or "For Rent" sign on a lot, which sign shall not exceed three (3) square feet.
- D. Legal notices posted in a designated area for the posting of such notices.

USES FOR WHICH A SPECIAL PERMIT MAY BE OBTAINED FROM THE PLANNING BOARD

Section 5.2 Not more than two signs on a lot identifying and permitted business or trade, only one of which may be free standing and located near the road, which sign shall not exceed three (3) square feet in area and only one of which may be attached to the building or structure used in connection with the business or trade and not exceeding six (6) square feet in area.

PROHIBITED USES

Section 5.3

- A. No neon, internally illuminated, flashing, occulting or moving signs shall be allowed.
- B. No sign shall be illuminated in any manner other than by stationary, top-mounted, white lights pointed downward and shielded to prevent glare and avoid light trespass on roads and nearby residential properties. Illumination of outdoor signs between the hours of 11:00p.m. and sunrise is prohibited.
- C. No portion of any sign shall be located more than ten feet above the ground.
- D. No sign not appurtenant to the premises to which the sign directs attention shall be allowed.

SIGNS IN EXISTENCE

Section 5.4

Non-conforming business signs in existence at the time of adoption of this bylaw shall be allowed to continue in place for the duration of the business or trade connected with said signs.

OUTDOOR LIGHTING: PURPOSE

Section 5.5

In order to preserve and maintain the rural character of Chilmark, including the unique quality of the nighttime sky, this bylaw is intended to apply to new lighting installed after its passage; it is also intended to:

- A. reduce the problems created by improperly designed and installed outdoor lighting;
- B. eliminate problems of glare and sky glow;
- C. diminish light spillage from indoor sources;

- D. minimize light trespass;
- E. decrease light pollution;
- F. promote energy conservation;
- G. conserve our natural resources and protect flora and fauna;
- H. prevent unreasonable interference with astronomical observations; and
- I. create standards for outdoor lighting so that its use does not unreasonably interfere with the use and nighttime enjoyment of property within Chilmark.

OUTDOOR LIGHTING: DEFINITIONS

Section 5.6 Unless the context clearly indicates otherwise, certain words and phrases used in this section shall mean the following:

“Lamp” means the component of an outdoor fixture that produces light.

“Up-light” means direct light emitted by an outdoor light fixture above horizontal plane through the fixture’s lowest emitting part.

“Shielded” when referring to an outdoor light fixture means that the fixture allows no up-light.

“Outdoor lighting” means the nighttime illumination of an outside area or object by any manmade device that produces light, including lights located indoors which are directed for outdoor illumination.

OUTDOOR LIGHTING: REGULATIONS

Section 5.7 Scope: All outdoor lighting installed in Chilmark shall be in conformance with the requirements established by this bylaw.

Outdoor lighting: In all zoning districts, any private outdoor lighting fixture, whether temporary or permanent, shall be so directed, placed, and shielded so that the light shall not be offensive to other residents. All outdoor lighting must be shielded and pointed downward. All outdoor lighting shall be placed or mounted so that no lamp is higher than the eave line of the structure. Multiple lamps on fixtures are allowed; however, lights shall not be combined or grouped in such a way that circumvents the purpose and intent of this bylaw.

Electrical insect control devices (bug zappers) are prohibited.

OUTDOOR LIGHTING: EXCEPTIONS

Section 5.8 Public lighting, including lights used for temporary emergency lighting needed by the Police or Fire Departments or other emergency services shall be exempt from the requirements of this bylaw.

Vehicular and vessel lights are exempt from the requirements of this bylaw.

Alternative light fixtures may be allowed for temporary recreational events.

Holiday lights. Holiday lights may only be permitted to be illuminated during the traditional holiday periods.

Traditional and antique lights, or reproductions thereof, shall be allowed provided that they do not circumvent the spirit of this bylaw.

Temporary lighting shall be permitted for no longer than a six (6) week period in a calendar year.

EXTERIOR MECHANICAL NOISE ABATEMENT

Section 5.9 Purpose:

Due to the proliferation of mechanical devices associated with and accessory to residential dwellings, such as, but not exclusively, air conditioners/heat pumps, swimming pool heating and circulating pumps, and electric generators, noise levels as perceived by neighbors and the general public are increasing. This section is intended to limit and abate such noise pollution.

Stationary machinery, which has the potential to generate levels of sound with sufficient intensity and /or duration as to cause or contribute to a condition of noise pollution, is hereby required to be placed in soundproof enclosures or to be so screened and insulated that the perceived sound levels do not rise by more than ten decibels (10 DbA) above the ambient sound level as measured at the property line. Machinery or mechanical units, which are placed outside the footprint of a dwelling, shall be treated as "structures" and shall be subject to the normal setbacks required by zoning and applicable permitting fee.

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 or Homesite Housing Lots and Youth 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 or Homesite Housing Lots and Youth 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. (i) 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; or (ii) is the Town and the Town intends to transfer or lease the lot or lots to a person who meets the criteria of Section A (1)(a)(i);
 - 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, either (i) the Homesite Housing long-term affordability Deed Restriction for the purpose of maintaining the property in a permanently affordable pool; or (ii) a Martha's Vineyard Housing needs covenant complying with St. 2004, c. 445; 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 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. The restrictions shall run for the maximum term permitted by law and shall be enforceable by the Town or, if created under St. 2004, c. 445, by the Dukes County Regional Housing Authority.

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 or for the Town to transfer or lease to an Eligible Purchaser.
- 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 Long-term 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 or if created under St. 2004, c. 445, by the Dukes County Regional Housing Authority, 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.

Residential Building Size Regulations

Section 6.11

- A. **Purpose:** The purpose of this Section is to ensure that residential construction is designed and carried out in a manner consistent with the purposes and objectives set out in Article 1 of these Zoning Bylaws. Section 6.11 seeks to ensure that future residential development: does not overwhelm Chilmark's rural atmosphere; does not detract from its geographic diversity – its seashore, ponds, stonewall boundaries, open agricultural space – or the vistas from its roadsides; is built in scale with past development practices with regard to bulk and building coverage; preserves the existing and historic rural development pattern and character of the Town as set forth in the Town Master Plan; and does not have undue adverse environmental impacts.
- B. **Applicability and Exceptions**
 1. **Total Living Area limit:** Subject to the exceptions provided for in subsections B.2 and B.3, below, building permits for new construction or for projects that seek to increase the Total Living Area of a lot with buildings that exist as of April 22, 2013, shall only be issued where, on completion of the project, the Total Living Area of the lot does not exceed 3500 sq ft for 3 acres:
 - a. plus 250 sq ft for each additional contiguous acre; or
 - b. minus 250 sq ft for each contiguous acre less than 3 acres, as the case may be, where the square footage per acre specified above is pro-rated for a portion of an acre.
 2. **Special Permit to exceed the Total Living Area limit:** The Total Living Area limit for a lot established in subsection B.1 may be exceeded, up to the cap established by this subsection, by special permit, as provided in the remaining provisions of this Bylaw. Subject to the exception provided for

in subsection B.3, no special permit may be issued for any project if the project would result in the Total Living Area of the lot exceeding 6000 sq ft for 3 acres:

- a. plus 250 sq ft for each additional contiguous acre; or
- b. minus 250 sq ft for each contiguous acre less than 3 acres, as the case may be, where the square footage per acre specified above is pro-rated for a portion of an acre.

3. Exceptions for Building Additions:

- a. The Total Living Area limit established by subsection B.1 may be exceeded by 5%, without a special permit, for a project which the Building Inspector determines is an addition to a building that existed as of April 22, 2013.
- b. The Total Living Area cap established by subsection B.2 may be exceeded by 5% by special permit for a project which is an addition to a building that existed as of April 22, 2013.
- c. These exceptions apply to more than one project, as long as the Total Living Area limit or cap established in subsections B.1 and B.2 are not exceeded by more than 5%.
- d. This section is intended to encourage preservation of Historic Houses. The square footage of an Historic House shall be excluded from the Total Living Area if its inclusion would result in the Total Living Area exceeding the applicable limit.

If the square footage has been excluded:

- i. a Special Permit will be required prior to any renovation, remodeling or rebuilding which changes the exterior of the Historic House. The Historical Commission shall review the proposed changes and prepare a written report setting forth its determination as to whether the changes preserve the integrity of the historic features of the exterior of the house. The Zoning Board of Appeals shall consider the Historical Commission's report in making its determination whether to grant the Special Permit; and
- ii. the replication of a destroyed, or partially destroyed, Historic House by fire, hurricane or other catastrophe may be allowed by Special Permit. The Zoning Board of Appeals (ZBA) shall seek comment from the Historical Commission prior to making its determination as to whether to grant the Special Permit.

- 4. Applicability to certain dwellings:** This Section shall not be construed to limit the number of buildings which would otherwise be permissible under section 1.03 of the Rules and Regulations Governing the Subdivision of Land in Chilmark (in effect as of April 22, 2013) on one lot; provided, however, that the Total Living Area for each building on the lot does not exceed the limitations imposed by subsections B.1 and B.2, respectively, which shall be determined by dividing the total acreage of the lot by the number of buildings permitted and built under Section 1.03.

- C. Initial Determination by the Building Inspector:** The Building Inspector will determine if any application for a permit for the building or construction of a building or structure would result in the Total Living Area exceeding the limitation set out in Section B.1 and whether the exception provided for in

subsection B.3(a) applies. If the Building Inspector determines that the applicant cannot proceed without a special permit, the Building Inspector will advise the applicant who may make application to the Zoning Board of Appeals for a special permit. No building permit may be issued hereunder unless the Zoning Board of Appeals has granted a special permit.

D. Hearing before the Zoning Board of Appeals: The Zoning Board of Appeals must hold a hearing within 65 days after the filing of an application for a special permit, notice of which shall be given at least 14 days prior to the date thereof. Notice shall be provided in accordance with the procedure set out in the Zoning Act. In addition to persons entitled to notice under the Zoning Act, the Zoning Board of Appeals may determine to also provide notice to:

1. property owners who would be considered abutters if a relevant public body of water were treated as if it were a public road; and/or
2. property owners within 1000 feet of the applicant's property; and/or
3. any road or pond association of which the applicant is entitled to membership; and/or
4. all Town commissions and boards having jurisdiction over any aspect of the applicant's project.

Any notice in addition to that required under the Zoning Act shall be at the expense of and otherwise solely the responsibility of the Town. The applicant is encouraged to participate directly in person at the hearing.

E. Documentation for a Hearing: The applicant must provide schematic architectural drawings (ie scale dimensional drawings including a site plan, floor plans, sections and elevations) prior to the hearing. To assist the Zoning Board of Appeals in its deliberations, the Zoning Board of Appeals may:

1. require the applicant to furnish a model or computer rendering of the project and the surrounding area or other visual aid and such other information as the Zoning Board of Appeals considers necessary; and
2. engage experts, including architects, engineers and consultants, and assess the applicant a fee(s) to reimburse such expenses.

F. Consideration by the Zoning Board of Appeals: In reviewing an application for a special permit under this Section 6.11, the Zoning Board of Appeals must consider the report, if any, of the Site Review Committee and, in addition, whether:

1. the project, when complete, would be visible, including during the winter, from public ways, water bodies, cemeteries and neighboring properties, and if so whether:
 - a. the impact of the project on the existing rural, scenic character of the site and the surroundings has been mitigated through building siting, building design and landscape design;
 - b. the project retains natural buffer areas or, where that is impracticable, provides sufficient landscape screening; and
 - c. the project minimizes the impact of exterior and interior lighting on the surrounding area and minimizes glare from windows or other reflecting materials incorporated in the project;
2. the project protects the natural features of the site and retains the natural landscape of the site after completion of construction;

3. the project avoids altering the natural landscape, minimizes the size of lawns and recreational facilities, uses native species for landscaping, and retains natural vegetation on slopes;
 4. the project minimizes grading alterations and executes grading and excavation so that the contours of the land are the same following construction as those previously existing on the site and adjacent to it;
 5. roads and other ways are designed to curve to fit the landscape and permit shared driveway entrances where possible;
 6. the project maintains the visual integrity of ridge lines by keeping construction below the ridge line and at least 10' below the average height of the existing trees on wooded ridges and hilltops on the lot;
 7. in open land, buildings are sited behind fields against the backdrop of adjoining woodlands;
 8. the project preserves and protects natural features of the site such as scenic points, water courses, large trees, historic spots, traditional stone walls and similar community assets;
 9. the project incorporates measures to reduce or mitigate excessive negative water quality impacts on ponds, wetlands and other water bodies both during construction and after completion;
 10. the project is designed to minimize fossil fuel use such as by incorporating energy efficiency, conservation techniques, and using renewable energy sources.
 11. in relation to its construction and possible eventual demolition, the project uses environmentally sound and sustainable design and building techniques.
 12. the project avoids significant adverse impacts on habitat, including:
 - a. whether the project meets the requirements and/or recommendations of the Massachusetts Natural Heritage and Endangered Species Program (NHESP) if the project triggered its review; and
 - b. if the project involves the clearing of more than one acre of NHESP Core or Priority Habitat, whether the project minimizes habitat fragmentation and has a defined development envelope limiting the disturbed area to the smaller of 35% or 2 acres of the designated habitat; and
 13. The project protects and preserves historical and archaeological resources.
- G. Determination by the Zoning Board of Appeals:** In considering the issues set out in Section F, the Zoning Board of Appeals must determine, as applicable, the degree of impact and any mitigating factors. If the Zoning Board of Appeals determines that the project has adequately addressed all relevant issues so that the concerns have been substantially mitigated, it may grant a special permit, which may contain conditions that mitigate the impact or otherwise ensure that the project is consistent with the purpose of this Section 6.11. Such conditions may include a deed restriction against future development and/or subdivision of the property. Any special permit granted under this bylaw shall lapse if the Building Inspector determines that substantial construction has not commenced within two years from the grant thereof including the time required to pursue and await the determination of any appeal thereto, except for good cause.

- H. **Other Approvals/Amendments:** The procedure set out in this Section 6.11 is not exclusive of any other permit or approval that the applicant may otherwise be required to obtain. Amendments made to any element of the project, pursuant to or as a condition of any permit approval granted by any authority under these bylaws or otherwise, will require a further hearing before the Zoning Board of Appeals with notice as set out above.
- I. **Biennial Review:** There shall be a joint Zoning Board of Appeals and Planning Board meeting on a biennial schedule to review the efficiency and address unexpected consequences created by this regulation and they shall report to the town meeting their findings and recommendations of this joint committee.

Section 6.12

A. Accessory Apartments

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. 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 in Chilmark following basic income certification by DCRHA*
 - 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.

*Dukes County Regional Housing Authority

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 Accessory 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 DCRHA) 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 DCRHA) 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 DCRHA 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 DCRHA 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. 2-Year Review

There shall be a joint Zoning Board of Appeals, Planning Board and Chilmark Housing Committee meeting every 2 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 2 years after this Bylaw's adoption.

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.

Article 8: NON-CONFORMING USES

Section 8.0 The lawful use of any structure or land existing on January 15, 1973 or at the time an amendment of this bylaw becomes effective which prohibits such use, may be continued, although such structure or use does not conform with the provisions of this bylaw.

Section 8.1 The Board of Appeals may, after a public hearing, notice of which shall have been given in accordance with the Zoning Act, permit a non-conforming use to be converted to another non-conforming use provided that such non-conforming use is not, in the opinion of the Board of Appeals, more objectionable or detrimental to the character of the neighborhood than the original use.

Section 8.2 Any non-conforming structure containing a conforming use may be expanded or altered, provided that such structure shall comply with the setback requirements and the height requirements of this bylaw.

Section 8.3 The Board of Appeals may, after a public hearing, grant a special permit to allow any non-conforming structure, which does not meet the requirements of Section 8.2, or any non-conforming use, to be expanded or altered if the board finds:

- A. Such expansion or alteration will not cause further non-conformance with the height requirements of this bylaw, and
- B. Such expansion or alteration will not be more objectionable or detrimental to the character of the neighborhood than the original structure, provided that, in all cases, any expansion of a structure, laterally more than 50 percent of the distance between a lot line and the portion of the structure closest to said lot line as of January 15, 1973, or within ten (10) feet of said lot line, shall be deemed substantially more detrimental to the character of the neighborhood.

A special permit under this section shall be conditional pending approval of the Board of Health if the proposed expansion or alteration may cause additional use of on-site sanitary disposal facilities.

Section 8.4 A non-conforming structure or use that is damaged by fire, hurricane, or other catastrophe may be restored or rebuilt and used again as previously, provided that the building or restoration following the catastrophe is not greater in extent or in type of activity than the original.

Section 8.5 A non-conforming use which has been abandoned for a period of seven (7) years shall not be re-established and any future use shall conform with this bylaw, except as otherwise provided by law.

Section 8.6 Once changed to a conforming use in any district, no structure shall be permitted to revert to a non-conforming use.

Section 8.7 Construction or operations under a building or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of six months after issuance of this permit, and in cases involving construction, such construction is continued through to completion as continuously and expeditiously as possible.

Article 9: ADMINISTRATION

ENFORCEMENT

Section 9.0 This bylaw shall be enforced by the Building Inspector of the Town of Chilmark. The Building Inspector shall not grant a permit for the construction or alteration of any building or structure if such action would be in violation of any provision of this bylaw; nor shall any permit or license be granted for a new use of a building, structure or land if such use would be in violation of any provision of this bylaw. Any person violating any of the provisions of this bylaw may be fined not more than fifty (50) dollars for each offense. Each day that such violation continues shall constitute a separate offense.

Any person aggrieved by a violation of any portion of this bylaw or any municipal officer, board or commission, may request the Building Inspector in writing to enforce the bylaw. The inspector shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of the receipt of such request.

BOARD of APPEALS

Section 9.1 There is hereby established a Board of Appeals consisting of five members to be appointed by the Board of Selectmen as provided by law. Members shall be appointed for five-year terms, one of whom shall be appointed each year. The board shall elect a chairman and a clerk from its membership each year. A member of the Board of Appeals may only be removed for cause by the Board of Selectmen, after written charges have been filed and a public hearing has been held. Vacancies in the Board of Appeals shall be filled in the same manner as appointments.

The Board of Selectmen may appoint up to five associate members of the Board of Appeals, and the Chairman of the Board of Appeals, or the Clerk in his absence, may designate any such associate member to sit on the board in case of absence, inability to act, or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until such vacancy is filled in the manner provided in this section. In case of the absence of the Chairman, the board shall elect a chairman pro tem.

BUILDING PERMITS

Section 9.2 No buildings shall be built or altered and no use of land or buildings requiring a permit shall be begun or changed without a permit having been issued by the Building Inspector.

APPLICATION for SPECIAL PERMIT or VARIANCE

Section 9.3 An applicant for a special permit or variance shall make written application therefor to the Board of Appeals or Planning Board, as provided in these bylaws, and shall file copies thereof with the Town Clerk and the Planning Board.

SPECIAL PERMIT or VARIANCE DATA REQUIREMENTS

Section 9.4 Each application for a special permit or for a variance shall be accompanied by such plans, survey or such other data as may be necessary in the opinion of the permit or variance granting Board to insure full conformance with this bylaw.

ADVISORY REPORT FROM PLANNING BOARD

Section 9.5 The Planning Board may make recommendations in writing to the Board of Appeals, which recommendations shall then become a part of the record of the public hearing of the case. A copy of the Planning Board's recommendations must be sent to the Board of Appeals and the applicant within twenty-one (21) days of receipt of the application by the Planning Board.

PROCEDURE FOR SPECIAL PERMIT or VARIANCE

Section 9.6 A public hearing on any application for a special permit or a variance shall be held within sixty-five (65) days after filing of an application therefor, notice of which hearing shall be given at least fourteen (14) days prior to the date thereof in accordance with the procedure specified in the Zoning Act.

TIME LIMIT on SPECIAL PERMIT or VARIANCE

Section 9.7 Any special permit granted under this bylaw shall lapse if a substantial use thereof or construction in connection therewith has not commenced within two years from the grant thereof including the time required to pursue and await the determination of any appeal thereto, except for good cause. Any variance granted under this bylaw shall lapse if the rights authorized are not exercised within two years after the grant of such variance. Any special permit or variance granted under this bylaw shall be revocable at any time by the board granting same if the holder of such permit or variance violates any provision of this bylaw.

CRITERIA FOR SPECIAL PERMIT or VARIANCE

Section 9.8 Special permits shall be issued only for uses which are in harmony with the general purpose and intent of this bylaw, as provided in Section 9 of the Zoning Act, and shall be subject to any conditions or limitations specified herein. A variance from any requirement of this bylaw shall be granted only in accordance with the criteria set forth in Section 10 of the Zoning Act.

APPEALS

Section 9.9 Any party aggrieved because of his inability to obtain a permit or enforcement action or by any decision or order of the Building Inspector or other permit granting authority in the enforcement of this bylaw may appeal to the Board of Appeals, as provided in Section 8 of the Zoning Act. Any such appeal shall be taken within thirty (30) days of the decision or order which is being appealed, by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to the Board of Appeals and to the officer or board whose decision or order is being appealed. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party to the proceeding, or any municipal officer, board or commission, may appeal to the Superior Court for Dukes County or to the Land Court under Section 14A of Massachusetts General Laws, Chapter 240 within twenty (20) days after the decision has been filed in the office of the Town Clerk, as provided in Section 17 of the Zoning Act.

Article 10: AMENDMENTS

Section 10.0 This bylaw may be amended from time to time at an annual or special town meeting as provided by law.

VALIDITY

Section 10.1 The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

ORIGINAL ZONING BYLAW

Section 10.2 The Original Zoning Bylaw adopted October 11, 1967 is not affected by the Additions to Zoning Bylaw and shall remain in full force and effect.

ARTICLE 11: DISTRICTS OF CRITICAL PLANNING CONCERN (OVERLAY DISTRICTS)

PURPOSE

Section 11.0 Pursuant to the authority of the Martha's Vineyard Commission Act, Ch. 637 of the Acts of 1974, as amended by Ch. 759 of the Acts of 1974, (the "Act"), certain land and waters within Chilmark have been designated by the Martha's Vineyard Commission (the "Commission") as Districts of Critical Planning Concern ("Critical Districts") for the purposes of the Act: to "preserve the natural character and beauty of Martha's Vineyard and to protect the unique natural, historical, ecological, scientific, cultural and other values" from developments which might impair them, while contributing to the maintenance of sound local economies and private property values.

SUPPLEMENTARY REGULATIONS

Section 11.1 Overlay Districts are districts with supplementary regulations to those of the underlying zoning districts and to other town regulations. Where there is a conflict between any other regulations and the overlay district regulations, the more limiting requirement shall prevail.

SITE REVIEW COMMITTEE

Section 11.2 There is hereby established a Site Review Committee (the "Committee") consisting of one member each of the Planning Board; Conservation Commission; Board of Health; and one member appointed by the Board of Selectmen, either from its membership, or the Building Inspector; and one elected member from the Town. Terms of membership shall be one (1) year. Each board shall appoint an alternate to serve in the absence of the designated member.

PROCEDURE

Section 11.3 The Building Inspector shall initially process all applications for building and other development permits. Those which fall within the Critical District shall be referred to the Site Review Committee. Said Committee shall review permit applications forwarded by the Building Inspector, and assist the applicant in complying with the permitted uses if possible. The Committee shall hold meetings with applicants and make suggestions, and may require an applicant to erect temporary poles on the site, said poles shall be the same height as the highest point of the proposed structure and shall be maintained on the site until the report of the Committee is filed, or until the Board of Appeals has acted.

The Committee shall file a written report with the Town Clerk within twenty-one (21) days of the receipt of an application. Failure to file within this period shall be construed as approval. Said report shall contain a list of the benefits and detriments; numerical majority of benefits or detriments shall not be binding on the Site Review Committee or any permit granting authority, since the purpose and intent of the regulations shall be of prime importance. They shall also take into consideration the intent of the guidelines expressed in Section 11.5 herein. If it is found that the development can and does comply with the regulations of the district, then no further proceedings hereunder shall be required and the applicant may return to the permit granting authorities and proceed in the usual manner.

All references to special permits in these regulations shall mean special permits issued by the

Board of Appeals. Any referral to the Board of Appeals shall be accompanied by a report of the Committee listing the reasons for non-compliance. The Board of Appeals shall hold a hearing after the proper notice and make their decision based on their adopted rules and regulations and the guidelines provided in Chapter 40 of the General Laws, taking into consideration the recommendations of the Site Review Committee.

DEVELOPMENT DEFINITION

Section 11.4 Development shall mean any building, or the dividing of land into parcels, or a change in the intensity of use; or the demolition of a historic structure or landmark, or of a stone wall visible from major roads, or the establishment of a way; or the alteration of a shore beach, seacoast, river, stream, or pond; including coastal construction; or the deposit of solid or liquid waste or fill on a parcel of land; or extensive dredging, excavation, or clearing of land; or drilling for other than water. Agricultural and aquacultural uses, or the cutting of limited amounts of firewood shall not constitute a development.

INTENT

Section 11.5 It is the intent of this bylaw to insure that development in these districts:

- A. Will not result in undue water, air, land or noise pollution;
- B. Will not unreasonably burden the existing water supply of the district;
- C. Will not result in increased beach erosion or damage to the coastal ecology or wetlands;
- D. Will cause no damage to fisheries and shellfish;
- E. Will cause no unnecessary decrease in agricultural use or the potential productivity of the land;
- F. Will result in as little interruption as possible of public views overlooking the site, nor will it allow construction which is not in harmony with the landscape type;
- G. Will not result in traffic that would be detrimental to the safety of the public.
- H. Will not result in a deterioration of the rural character of Chilmark by proliferation of accessory structures.

DESIGNATED AREAS

Section 11.6 Areas designated: Coastal District, Streams and Wetlands Draining into Coastal Great Ponds, Roadside District, and Special Places District, Meetinghouse Road and Tiasquam River District. (For Squibnocket Pond District see Section 12):

- A. **BOUNDARIES OF THE CHILMARK COASTAL DISTRICT** : The land, streams and wetlands in

Chilmark which lie below the ten (10) foot elevation above mean sea level, or within five hundred (500) feet of mean high water of a coastal water body exceeding ten (10) acres in size, or the ocean; all of Noman's Island; all land within one hundred (100) feet of streams and wetlands draining into the Coastal Great Ponds (measurement from the thread of the streams or the edge of the wetland vegetation).

1. The Coastal District shall consist of two zones as follows:
 - a. **The Shore Zone:** The land from mean low water to one hundred (100) feet inland of the inland edge of any beach or marsh grasses, and one hundred (100) feet inland of the crest of any bluff exceeding a height of fifteen (15) feet. Where there is no beach grass or where there are bluffs, measurement shall be from the inland edge of the beach. The height of a bluff shall be measured from mean high water.
 - b. **The Inland Zone:** Consisting of all land within the Coastal District except the Shore Zone.
2. Allowable Uses Within the Zones:
 - a. Boat storage shall be allowed in all zones of overlay districts.
 - b. With respect only to those portions of the Chilmark Coastal District that are located within the Squibnocket Pond District (the boundaries of which are defined in Section 3.1.H of this bylaw), reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the restriction set forth in Section 11.6.A.2.d.4 shall not be applicable and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 11 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.
 - c. **The Shore Zone, Permitted Uses:** Uses which are consistent with the fragile nature of the area, such as outdoor recreation, conservation purposes, agricultural and aquacultural and fishing purposes; docks, landings and boathouses associated with these purposes.

(i) Uses Allowed by Special Permit:

- a.) Additions to existing single-family dwellings, provided that these additions, whether rebuilding or remodeling, do not increase the square footage of the dwelling, existing as of the effective date of this amendment, by more than two hundred and fifty (250) square feet with no roof line exceeding the height of the existing dwelling; and provided that these additions do not require the installation of additional on-site sanitary disposal systems, or result in the increased use of existing on-site sanitary disposal systems.
- b.) minor non-residential structures and uses requiring no on-site sanitary disposal facilities; and
- c.) fish processing facilities requiring no on-site sanitary disposal systems.

(ii) No structure shall exceed eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet in height for a flat or shed roof

- d. The Inland Zone, Permitted Uses: Non-habitable minor accessory structures, single-family dwelling unit and an addition to an existing structure, provided that all applications for regular permits are submitted to the usual permit-granting authorities for certification as to compliance with the allowable uses under this bylaw.
- 1.) No structure shall exceed eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet in height for a flat or shed roof in open terrain (consisting of moors, plains or bluffs), or twenty-four (24) feet for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in wooded terrain.
 - 2) No moving, removing or otherwise altering an existing stone wall shall be allowed, other than for one driveway, in which case the stones from the opening wall shall be utilized on the property. Stone walls may be repaired.
 - 3) In a division of land into two or more lots, all electric and telephone wires shall be placed underground, except that a special permit for an exemption may be granted if underground placement is determined not to be feasible because of technical difficulties. On a single lot, an exemption may be granted for one pole.
 - 4) Roads that do not exceed a width of ten (10) feet, but roads may have an additional area to accommodate pedestrian travel, provided that the entire width does not exceed fifteen (15) feet.

5) Uses Allowed by Special Permit: Swimming pools and/or tennis courts provided that:

- a) The pool and/or tennis court are constructed on or below the natural surrounding grade. Any adjacent accessory buildings within fifty (50) feet of the pool or court (with the exception of fences and nets) are constructed so as not to protrude more than four (4) feet above the natural grade;
- b) the pool or court fences are screened with plantings (which shall be maintained so as not to be higher than the fence or to obstruct scenic views) on all sides facing neighbors or a public way; and
- c) the pool or court and adjacent area conforms with Section 4.2.A.3.

3) Uses Not Permitted

- a) Swimming pools or tennis courts within the Shore Zone.

B. BOUNDARIES OF STREAMS AND WETLANDS DRAINING INTO COASTAL GREAT

PONDS: The land and water lying within one hundred (100) feet from the thread of streams or from the edge of wetlands contiguous to ponds or streams draining into coastal ponds.

- 1. Permitted Uses: All uses allowed in the Shore Zone.
- 2. Uses Allowed by Special Permits:
 - a. Uses allowed by special permit in the Shore Zone.
 - b. Alterations of a bank or streams (such as for the construction of dams, bridges, or water wheels) may be allowed by special permit. Priority will be given to such alterations for farming, fishing, and wildlife uses, with the approval of the Conservation Commission.

3. Uses Not Permitted

- a) Swimming pools or tennis courts.

C. BOUNDARIES OF THE CHILMARK ROADSIDE DISTRICT : The land lying within 200 feet from each side of the right of way of: North Road, Middle Road, Tea Lane, Meeting House Road, Tabor House Road, Menemsha Crossroad, and the land within 500 feet of each side of the right of way of South Road.

- 1. Goals of the Major Road Zone: Allow for safe access and travel along the roads. Protect the visual character, diversity of landscape and historic features of the journey along the roads.
- 2. Allowable Uses with in the Roadside Zone:

- a) A structure not exceeding eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in open terrain or twenty-four (24) feet for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in wooded terrain. A special permit may be granted by the Zoning Board of Appeals for a height up to twenty-eight (28) feet as provided by the Zoning Bylaws. A special permit may be granted by the Board of Appeals for a height of up to the current existing ridge pole for additions or alterations to houses in this district that were built before 1850 and are listed in the Historic Resources section of the Chilmark Master Plan, provided that the proposed structure is consistent with the architectural style of the existing house.

- b) Minimum Setbacks Along Road Frontages in Relation to Heights:
 - a. Height: Setback:
 - b. 17 feet or less 60 feet
 - c. 20 feet or less 80 feet
 - d. 24 feet or less100 feet

- c) A dwelling or addition to a dwelling which does not obstruct a view or outlook as designated on the attached town map.

- d) Roadways: Any way hereafter established in the Road District to provide vehicular access from a lot to a public road shall be located at least 1,000 feet from any other such way located on the same side of the road, provided that all existing parcels of land in separate ownership on the effective date of this provision are entitled to access to a public road, provided that the access is located as far as practicable from all other ways. The foregoing is not to be interpreted to mean that land beyond this district can be refused a right of way over these accesses because of these regulations.

- e) Stone Walls and Utility Lines: Regulations regarding stone walls and utility lines shall be the same as in the Coastal District.

D. BOUNDARIES OF THE SPECIAL PLACES DISTRICT : The land and water lying within one hundred (100) feet of the extreme high water mark of Harlock's Pond; the rectangle of land 150 by 150 feet containing the rock foration known as Devil's Bed; and all land on Peaked Hill and Prospect Hill lying at a greater elevation than two hundred eighty (280) feet above mean sea level, and all land within the following boundary: beginning at a point on the Town boundary 500 feet south of Wascosim's Rock, following the 500 foot radius from the Rock westerly and northerly until the radius intersects the 130 foot elevation contour, then following the 130 foot elevation contour northerly and easterly until it meets the Town boundary.

- 1. Permitted Uses:
Uses which are consistent with the fragile nature of the area, such as

outdoor recreation and conservation purposes. Within the Wascosim's Rock Special Place District, uses are permitted which do not require a structure, sanitary disposal facility, road or fence. Such uses may include outdoor recreation, conservation, agriculture and management activities approved by the Conservation Commission.

2. USES REQUIRING SPECIAL PERMITS WITHIN THE WASCOSIM'S ROCK SPECIAL PLACE DCPC OVERLAY DISTRICT.

Any use or structure which is permitted in the respective zoning district including the erection, installation or placement of any structure requiring a building permit, or road, or way, subject to the following:

- a. Special permits may be granted if the development does not substantially affect the views from the rock formations and ridge top and the views of the ridge line and horizon from the surrounding valleys and from North Road. The Zoning Board of Appeals shall consider the recommendations of the Site Review Committee as well as factors such as height, roof expanse, colors, materials, angles, massing and architectural detail of the development proposal to insure compatibility with the surrounding landscape character. The Site Review Committee and Board of Appeals may require an applicant to erect temporary poles on the site which are the same height as the highest point of the proposed structure and maintain those poles on the site until the report of the Committee is filed or until the Board of Appeals has acted.
- b. The Zoning Board of Appeals shall also consider whether proposed development will comply with a DCPC management plan adopted by the Conservation Commission.
- c. Special consideration shall be given to development proposals which include provisions for permanently dedicated non-vehicular public access to Wascosim's Ridge.
- d. Special permits shall not be granted for developments sited above the 145 foot elevation contour with the exception of fences for agricultural or conservation purposes which do not impair views to or from the ridge top.
- e. Administration: Special permits as called for within the Special Places District shall be issued by the Board of Appeals and shall be reviewed by the Site Review Committee as described in subsection 11.3 and 11.4

E. AREA DESIGNATED:

MEETINGHOUSE ROAD AND TIASQUAM RIVER DISTRICT:

Boundaries: The lands and waters bounded by Middle Road on the north, starting at a point five hundred (500) feet to the west of the intersection of Middle Road and Meetinghouse Road; south to a point on the way commonly called Old King's Highway

five hundred (500) feet from the intersection of Old King's Highway to a point fifteen hundred feet from the intersection of Old King's Highway and Meetinghouse Road and northerly to a point on Middle Road which is 4,300 feet easterly of Meetinghouse Road (measured along Middle Road), thence to the point of origin.

1. Goals of the Meetinghouse Road and Tiasquam River District: To protect the fragile historic, rural and natural features of the District from the hazards of erosion, sedimentation, pollution from on-site sanitary disposal facilities, and visual intrusion. This includes preventing or minimizing the quantity and promi-nence of development near Meetinghouse Road, Old King's Highway, and the Tiasquam River, as well as prominent ridges and steep slopes, and protecting the historic character of Meetinghouse Road as a narrow, unpaved country lane.
2. Permitted Uses: All uses allowed in the underlying district and in the Chilmark Roadside District provided that:
 - a. Existing natural vegetation shall be retained within 75 feet of Middle Road, Meetinghouse Road, and Old King's Highway except clearing required for approved roads or ways; agricultural use of existing fields.
 - b. Structures shall not be built on ridges or hilltops in such a way as to be visible from public ways.
 - c. Sanitary disposal facilities shall be located no closer than 200 feet from the thread of the Tiasquam River or from the edge of associated wetland vegetation.
 - d. Developments on slopes greater than 8% shall require approval by the Building Inspector of an erosion and sedimentation control plan and schedule.
 - e. All new utilities within the District installed after June 14, 1976 shall be underground.
3. **Uses allowed by Special Permit:**
 - a. Exceptions to above permitted uses a. through e. may be granted by the Board of Appeals provided that the Board finds the proposed development consistent with the goals of the District and that it does not adversely affect any resources specified in Section 4.0 of the Decision of the Martha's Vineyard Commission on June 14, 1976.

DEVELOPMENTS OF REGIONAL IMPACT

Section 11.7 Construction of hard-surfaced roads, with impervious surface, and parking lots for more than five (5) vehicles, or any road providing vehicular access to a beach, or any development on Noman's Land Island shall be developments of regional impact requiring special approval from the Martha's Vineyard Commission.

NON-CONFORMING USES

Section 11.8 Paragraphs 8.0 to 8.6 in the Zoning Bylaws of the Town of Chilmark shall prevail except as provided in the Shore Zone and land within one hundred (100) feet of streams and wetlands draining into Coastal Ponds.

ARTICLE 12: SQUIBNOCKET POND DISTRICT

PURPOSE

Section 12.0 Consistent with the Chilmark Zoning Bylaws and Master Plan and with the ongoing studies of Squibnocket Pond and its watershed, the Squibnocket Pond District is created in order to protect the waters, tributaries, groundwater and land abutting Squibnocket Pond. The District is created with special concern for preservation of the unspoiled nature of the Pond and adjacent coastal areas, and for the fragile ecology of the area, including fisheries, wildlife, vistas and historical and archeological resources. Regulations within this bylaw are intended to strengthen, reinforce and enlarge the "Intent" of the regulations for Districts of Critical Planning Concern as defined in Article 11, Section 11.5 of the Chilmark Zoning Bylaws.

The regulations for this District are supplementary to those of the underlying District VI. If there is a conflict between regulations, the more restrictive shall apply. As stated in Section 4.0, all uses not specifically permitted shall be prohibited.

BOUNDARIES

Section 12.1 Boundaries of the District shall be those published in Section 3.1, I of the Chilmark Zoning Bylaws as reprinted December 1989. (Now 3.1.H.)

ZONES WITHIN THE DISTRICT

Section 12.2 A. Zone A shall include the water of the Pond and the land under the water.

B. Zone B shall include the land from the shore of Squibnocket Pond to a line 500 feet inland. This Zone is divided into two sections: B1 shall include the land from the shore of Squibnocket Pond to a line 100 feet inland: B2 shall include the land from 100 feet to 500 feet inland from the shoreline of the Pond.

C. Zone C shall include any stream or wetland draining into Squibnocket Pond and land within 200 feet of such streams and wetlands.

D. Zone D shall include the remainder of the land and waters within the boundaries of the District.

PERMITTED USES

Section 12.3

- A. Zone A (within Squibnocket Pond)
 - 1. Hunting, fishing and shellfishing, swimming, boating and ice skating. (See Special Permits and Licenses, Section 12.4A, for the use of motors).
- B. Zone B (land from the shore of Squibnocket Pond to 500 feet inland). This Zone is intended to remain primarily a wildlife habitat and buffer area, limited to existing uses, those permitted in this section, and those structures and uses allowed by Special Permit for this Zone.

1. Zone B1 (land within 100 feet of the shoreline of Squibnocket Pond).
 - a. Existing ways or paths to the shore of the pond may be maintained and used, provided that a vegetative cover is maintained in such ways.
 - b. Maintenance of existing mowed areas and agricultural fields, subject to such monitoring as may be required by the Board of Health in consultation with the Pond Advisory Committee.
 - c. Selective cutting of new paths to the shore may be permitted by an Order of Conditions issued by the Conservation Commission, in consultation with the Pond Advisory Committee as to the placement.
 - d. Selective clearing or mowing of new areas to establish or protect natural wildlife habitat and to protect or maintain rare and endangered species may be permitted by the Conservation Commission, in consultation with the Pond Advisory Committee.
 - e. Open boat storage.
 - f. Selective clearing of vegetation over four feet high to protect views may be allowed by the Conservation Commission, in consultation with the Pond Advisory Committee.
 - g. Reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the dimensional requirements established in the Zoning By-laws shall not apply and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 12 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.
 - h. Uses allowed in Zone A.
2. Zone B2 (land from 100 feet to 500 feet from the shoreline of Squibnocket Pond).
 - a. All uses allowed in Zone B1.

- b. Agricultural uses existing at the time of the adoption of this bylaw and rebuilding on existing foundations of agricultural structures. New agricultural uses which require clearing may be permitted by the Conservation Commission.
 - c. Uses which, in the opinion of the Planning Board, do not substantially alter local vegetation, wildlife habitat, or landforms, and which do not require a building. (Paths, driveways and recreational uses, etc).
- C. Zone C (areas within 200 feet of any stream or wetland draining into Squibnocket Pond, measured from the bank of a stream or the boundary of a wetland as defined in Chilmark Wetland Bylaw). This Zone is intended to provide a vegetated filter strip along the edge of tributary streams and wetlands to protect the water quality and to allow a nearly undisturbed corridor for wildlife. The buffer zone within which the Conservation Commission may claim jurisdiction is increased from 100 feet to 200 feet for streams and wetlands draining to the Pond.
- 1. All uses permitted in Zone B1.
 - 2. Selective cutting of paths with Conservation Commission approval.
 - 3. Subject to the issuance by the Conservation Commission of an Order of Conditions or negative Determination of Applicability, the Planning Board may permit the construction and maintenance of paths and roads.
- D. Zone D (remainder of land and water within the defined District boundaries).
- 1. One single-family dwelling and its permitted non-habitable accessory structures or uses shall be allowed on each lot, except that the Planning Board may grant a special permit for a secondary dwelling on a lot of six or more acres, provided that the scale and siting of the secondary dwelling are consistent with these regulations.
 - 2. Agricultural structures and uses.
 - 3. All uses permitted in Zones B and C.

USES ALLOWED BY SPECIAL PERMIT OR BY LICENSE

Section 12.4 The intent of this section is to permit only such uses as are consistent with the conservation of the Pond and with the objectives of the District as a whole. The permit granting authority may require conditions or limitations on a permit or may deny a permit if the use is found to be inconsistent with the objectives of the District.

- A. Zone A.

1. The Board of Selectmen may grant licenses for aquaculture and for commercial fishing or shellfishing, provided that no motor greater than 10 horsepower is used for propulsion. No recreational use of motors shall be permitted on the Pond.
2. The Conservation Commission may permit structures or temporary piers required for aquaculture, fishing or shellfishing provided that the Pond Advisory Committee has reviewed the application. Such permits shall be reviewed annually and such structures shall be removed when the licensed use is discontinued.
3. Other future uses developed as a result of the ongoing studies of the Pond and its watershed may be allowed by Special Permit of the Planning Board, provided such uses are recommended by the Pond Advisory Committee. Conservation Commission approval will also be required.

B. Zone B1

The Conservation Commission may permit structures required for aquaculture or for commercial fishing or shellfishing, provided such uses are recommended by the Pond Advisory Committee. Such structures shall be removed when the permitted use is discontinued.

C. Zone B2 and Zone C from 100 feet to 200 feet from wetland or streams draining to Squibnocket Pond.

1. The Board of Appeals may grant a Special Permit for the alteration of an existing single-family dwelling, provided there is no increase in the number of bedrooms, and provided the alteration does not increase the floor area of the house as of the date of this bylaw by more than 25%. Any such alteration will require Board of Health review.
2. The Board of Appeals may grant a Special Permit for the alteration of an existing non-habitable accessory structure.
3. Uses allowed in Zone B.

D. Zone D

1. The Board of Appeals may issue a Special Permit for non-habitable accessory uses allowed by Special Permit in the underlying District, provided that the purpose and regulations for development in the Squibnocket Pond District are met.
2. The Board of Appeals may issue a Special Permit for the religious, educational, municipal and public uses permitted in the underlying District, provided that the purpose and regulations for development in the Squibnocket Pond District are met.

E. Exemptions

1. All lots in subdivisions approved by the Planning Board before October 16, 1990 shall be exempt from the use and setback requirements of Zone B2 and Section 12.6C.

SQUIBNOCKET POND ADVISORY COMMITTEE

Section 12.5

- A. A Pond Advisory Committee shall be established by the Town of Chilmark. The size, membership and appointing authorities shall be decided by the Planning Board, the Conservation Commission, the Board of Health and the Selectmen.
- B. The duties of the Committee shall be:
 1. To sponsor and oversee continued study and monitoring of the Pond and its watershed;
 2. To observe and inform town boards of changes which are brought about by natural or human activities;
 3. To make recommendations on specific developments within the District, as specified in this bylaw; and
 4. To make recommendations to town boards and officers concerning changes in this bylaw and other regulations.

GENERAL REGULATIONS FOR THE DISTRICT

SECTION 12.6

- A. The Site Review Committee shall review all applications for structures or for special permits within the District. The Committee shall be empowered to require that a Special Permit from the Board of Appeals be sought for any application which, in the opinion of the Committee, is not consistent with the purposes and intent of this bylaw. Guidelines for consideration shall include but not be limited to:
 1. Development should be unobtrusive and subordinate to existing natural features and vegetation.
 2. New structures shall not be built on ridges or hilltops, and intrusion into the skyline as viewed from public places shall be minimized.
 3. Lawns and paved areas shall be kept to a minimum.
 4. Exterior lighting shall be shielded so as not to project beyond the lot lines.
 5. No new impervious surfaces allowed for driveways and parking areas except on slopes of 8% or more.
- B. Height Limitations
Permitted heights for structures in the Squibnocket Pond District shall be the same as those in the Coastal District. By Special Permit of the Board of Appeals, the height of a dwelling with a gabled roof may be increased to 24

feet if the conditions stated in Section 6.3 of the Zoning Bylaws are satisfied.

C. Septic Systems

Septic Systems shall be set back 500 feet from Squibnocket Pond, 200 feet from any other wetland, stream or pond which drains to Squibnocket Pond. Septic systems require a vertical separation from groundwater of six feet. The Board of Health may grant a variance from these requirements where the physical characteristics of the property cause substantial hardship, as defined in Section 10 of the Zoning Act, Massachusetts General Laws, Chapter 40A.

D. Historical and Archeological Resources

Areas proposed for development will be reviewed by the Planning Board for significant historical and archeological sites as mapped by the Massachusetts Historical Commission and/or known to the Wampanoag Tribal Council. Elements of new development may be required to be relocated or may be denied if no adequate relocation is possible.

E. Erosion and Sedimentation Control

An Erosion and Sedimentation Control Plan completed in accordance with Soil Conservation Service (now NRCS) specifications shall be filed with the Conservation Commission for any development on a slope of 8% or more, or which will disturb more than ½ acre of land.

F. Coastal Area

Because of the constant erosion of the ocean shore, new structures and developments shall be set back 200 feet from the crest of any coastal bluff exceeding a height of 15 feet or from the inland edge of beach or marsh grasses.

G. Wildlife Habitat

Guidelines for the protection of wildlife, particularly rare and endangered species of plants and animals, will be developed with the assistance and advice of the Massachusetts Natural Heritage Program and administered by the Conservation Commission.

H. Prohibited Uses

1. Use of chemical fertilizers, herbicides, fungicides, pesticides, chemical septic system cleaners and such other substances as may be determined by the Board of Health;
2. Bulk storage of hazardous substances with the exception of household heating fuel;
3. Use of garbage disposals except those in place as of October 16, 1990.

ARTICLE 13: WILD & SCENIC NORTH SHORE OVERLAY DISTRICT

PURPOSE

Section 13.0 To protect the wild and scenic natural beauty of the District from undue visual intrusion; to allow the unimpeded natural processes of littoral drift to occur, providing continuous beach nourishment along the length of the North Shore; to protect wildlife habitats; to prevent obstruction to navigation, throughout the District; to protect against storm damage that may be caused or exacerbated by inappropriate development.

BOUNDARIES

Section 13.1 The Wild and Scenic North Shore District consists of the waters and the lands under the waters, beginning at the corporate bounds of the Towns of West Tisbury and Chilmark, and thence along the Mean Low Water Line of Vineyard Sound in the Town of Chilmark, in a generally southwesterly direction, to the corporate bounds of the Towns of Chilmark and Aquinnah, and extending 100 feet seaward from said Mean Low Water Line.

This regulation shall be applied vertically above and below the surface of waters included in the District.

PERMITTED USES

Section 13.2 Subject to the Rules and Regulations as are from time to time issued by the Harbor Master pursuant to the authority granted to him under M.G.L. C. 90B, 91 and 102 and, further subject to the granting of licenses and/or permits required by the Town, State or Federal boards or agencies exercising authority granted to them by law other than M.G.L. c. 40A, uses which are consistent with the fragile nature of the area, such as recreational fishing and boating, and which do not involve the permanent placement of any new fill, structure or other materials, are permitted. Commercial fishing, shellfish and aquaculture activities are permitted, so long as those activities are duly licensed and do not require the placement of any permanent fill or structure. Routine maintenance of the inlet at Menemsha Creek is permitted. Maintenance of any fill or structure in lawful existence as of the date of adoption of this regulation is permitted. Beach nourishment is permitted.

USES BY SPECIAL PERMIT

Section 13.3 The Zoning Board of Appeals may issue a Special Permit for permanent placement of any fill or structure for municipal purposes or for purposes of commercial fishing, shellfishing or aquaculture. Such commercial dock permits shall be reviewed annually by the Board of Selectmen or its designee. Such structures shall be removed when and if the commercial use is discontinued. Such Special Permit shall be granted only after the Zoning Board of Appeals:

A. Has received and given due consideration to an Order of Conditions issued by the Conservation Commission. Upon receipt of the Special Permit application, the Zoning Board of Appeals shall forward a copy of the application to the Conservation Commission for comment. Failure of the Conservation Commission to submit the Order of Conditions to the Zoning Board of Appeals within 21 days of the initial filing of the Special Permit application shall be deemed a favorable recommendation. The Zoning Board of Appeals may also consider the recommendation of other authorities familiar with the District and its resources.

AND

B. Has determined that the proposed use is consistent with the Purpose of this By-Law and with the provisions of the Chilmark Open Space Plan as from time to time adopted.

PROHIBITED USES

Section 13.4 All other uses not permitted by right or by Special Permit are prohibited.

Article 14: MENEMSHA, NASHAQUITSA & STONEWALL PONDS OVERLAY DISTRICT

PURPOSE

Section 14.0 The purpose of the district is to protect the finfish and shellfish resources of the district, to protect eelgrass habitats, to promote economic development of fisheries and related industries, to promote appropriate public or community access for recreation and for commercial fisheries.

DISTRICT BOUNDARIES

Section 14.1 The Menemsha, Nashaquitsa and Stonewall Ponds District consists of the waters and land thereunder in Menemsha, Nashaquitsa and Stonewall Ponds beginning at the Aquinnah-Chilmark town line north of State Road, extending into Menemsha Pond from mean high water for a distance of two hundred (200) feet and following said mean high water mark along the shore of Menemsha Pond easterly to and into Nashaquitsa Pond and hence to and into Stonewall Pond and hence along the mean high water mark to and into Nashaquitsa Pond and hence along the mean high water mark of the northeasterly shoreline back and into Menemsha Pond and hence along the easterly shoreline of Menemsha Pond northerly to the juncture of the Aquinnah-Chilmark town line at the end of North Road in Menemsha.

PERMITTED USES

Section 14.2

- A. Outdoor recreational activities including swimming, boating and nature study.
- B. Fishing, aquaculture, cultivation and harvest of shellfish, so long as those activities are licensed by the appropriate federal, state and/or local licensing authorities and do not require the placement of any permanent fill or structure. However, placement of cultivation materials such as rocks and shells may be permitted, as directed by the Shellfish Constable.
- C. The seasonal installation and use of floats, moorings and off-hauls with written permission of the Harbor Master. All floats must be removed and stored upland by November 1 until April 1 of the following year.
- D. Dredging by the town, state or federal governments of navigational channels or of areas of the pond to improve circulation for the propagation of shellfish, providing all necessary local, state and federal permits are obtained.
- E. Maintenance of any fill or structure in lawful existence at the time of adoption of this regulation, provided:
 - 1. no work extends beyond the licensed footprint,
 - 2. no chemically treated wood products are used and
 - 3. no wood preservatives are used except as approved by the Conservation Commission.

USES ALLOWED BY SPECIAL PERMIT
Section 14.3

The Zoning Board of Appeals may issue a Special Permit for the following uses, after the Board:

- A. Has referred the request to the Harbor Master for written comment on the potential impacts of the proposed project on existing, customary or planned boating channels or mooring areas, to the Shellfish Constable and The Commonwealth of Massachusetts Division of Marine Fisheries for written comment on the potential impact on shellfish beds or shellfish habitat, and to the Conservation Commission for an Order of Conditions; and
- B. Has determined that the use is consistent with the Purpose of the district, with the Town's Master Plan, Open Space Plan and Shellfish Management Plan as they may be from time to time amended, and that the use would not adversely impact shellfish, finfish or eelgrass resources as they may be mapped by agencies of the Commonwealth of Massachusetts, or by the Shellfish Constable.
 1. Municipal structures and fill for furthering the commercial fisheries or public access and provided that such structures are removed if they are no longer used for their limited purposes.
 2. Dredging activities other than those permitted by right.
 3. Non-municipal piers.

PROHIBITED USES
Section 14.4

All other uses not permitted by right or by Special Permit are prohibited. Specifically prohibited are:

1. Discharge of hazardous substances or effluent from marine related uses.
2. Use of a houseboat or barge as a dwelling unit.
3. "Prop dredging", defined as deliberately running propellers in shallow water to increase depth.
4. Anti-fouling paint on floats or moorings.
5. Use of chemically treated wood products or preservatives except as approved by the Conservation Commission.

Article 15: Large-Scale Ground-Mounted Solar Photovoltaic Installation District

PURPOSE

Section 15.0 The purpose of this Article is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, maintenance and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and provide adequate financial assurance for the eventual decommissioning of such installations.

DISTRICT BOUNDARIES (DESIGNATED AREA)

Section 15.1 The Large-Scale Ground-Mounted Solar Photovoltaic Installation District shall be described as follows: Assessors Map 13, parcel 28.

APPLICABILITY

Section 15.2 This Article applies to Solar Installations proposed to be constructed after the effective date of this Article. This Article also pertains to modifications of these installations or related equipment. This Article does not apply to solar photovoltaic installations that are smaller than 250kW or those which are not ground-mounted.

PERMITTED USE

SECTION 15.3

A. Solar Installations

DEFINITIONS

Section 15.4

Owner means the owner of the Solar Installation and includes, where the context permits, the then-current owner.

Solar Installation means a large-scale ground-mounted solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and that has a minimum rated nameplate capacity of 250 kW (DC) or more (where the nameplate capacity is the maximum rated output of electric power production of the photovoltaic system in direct current).

GENERAL REQUIREMENTS FOR LARGE SOLAR INSTALLATIONS

Section 15.5 Solar Installations proposed to be sited in the Large-Scale Ground-Mounted Solar Photovoltaic Installation District are subject to the requirements set out in this section. These requirements also apply to physical modifications that materially alter the type, configuration, or size material modifications of Solar Installations or related equipment.

A. **Compliance with Laws, Bylaws and Regulations:** The construction, operation and maintenance of all Solar Installations shall be in compliance with all applicable local, state and federal requirements, including but not limited to all

applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a Solar Installation shall be constructed in accordance with the State Building Code.

- B. **Building Permit and Fees:** No Solar Installation shall be constructed, installed or modified without first obtaining a building permit. The application for a building permit for a Solar Installation must be accompanied by the applicable fee.

- C. **Planning Board Review:** Prior to the construction or modification of a Solar Installation (as applicable), the applicant must provide the documents detailed in section D below for review by the Planning Board. The purpose of the Planning Board review is to determine whether the proposed use complies with this section and whether the site design conforms to established standards and zoning requirements, including in regard to safety, access, landscaping.

- D. **Required Documents**
 - 1. A project summary, together with a site plan showing:
 - a. property lines and physical features, including roads, for the project site;
 - b. proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures; and
 - c. the zoning district designation for the parcel(s) of land comprising the project site;
 - 2. Blueprints or drawings of the Solar Installation showing the proposed layout of the system (including the location of each item of electrical equipment) and any potential shading from nearby structures;
 - 3. One- or three-line electrical diagram detailing the Solar Installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
 - 4. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 - 5. Name, address, phone number, and signature of the applicant(s), any agent(s) representing the applicant(s), and the owner(s)/developer(s) if the applicant is not the owner or developer. Such data must be provided for all co-applicants and co-owners, if any;
 - 6. Name, address, and contact information of the person responsible for the installation of the proposed project;
 - 7. Description, with accompanying documentation, of proposed access control arrangements for the project site both for the construction phase and the operation of the installation thereafter.

8. An operation and maintenance plan, which must include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation;
 9. Proof of liability insurance;
 10. An estimate of the total costs associated with decommissioning the Solar Installation in accordance with section 15.5L.1, prepared by a qualified engineer, which costs shall include a mechanism for calculating increased costs due to inflation and potential regulatory changes; and
 11. A public outreach plan, including a project development timeline, which indicates how the applicant will inform abutters and the community.
- All plans, maps, blueprints and drawings shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

E. Design Standards:

1. **Lighting:** Lighting of Solar Installations shall comply with Article 5 of these bylaws and shall otherwise be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. **Signage:** Signs on Solar Installations shall comply with Article 5 of these bylaws. A sign consistent with the sign bylaw shall be required to identify the facilities owner and operator, if different, and provide a 24-hour emergency contact phone number. Solar Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the installation.
3. **Noise:** The Planning Board may require some or all associated electrical equipment to be located in a sound-insulating enclosure to reduce acoustic noise. The location of the enclosure must be approved by the Board. Any such equipment which the Board does not require to be so located must comply with the provisions of Article 5 of these bylaws. The Board may also require that the applicant perform and provide the results of a sound impact assessment.
4. **Prevention of Access:** All Solar Installations shall be constructed to prevent unauthorized access and/or climbing.

5. **No-Cut Zone:** A 50' no-cut zone shall be observed around the inside perimeter of the lot on which the Solar Installation is located, provided that trees may be pruned or topped if necessary to ensure solar absorption by the panels of the installation.

F. **Safety and Environmental Standards:**

1. **Emergency Services:** The owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the installation shall be clearly marked. The owner or operator shall identify and provide contact details for the person responsible for public inquiries and shall update this information throughout the life of the installation, as required.
2. **Land Clearing, Soil Erosion and Habitat Impacts:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the installation or what is otherwise prescribed by applicable laws, regulations, and bylaws.

G. **Setbacks:**

1. The Solar Installation, including all equipment comprising the system, shall be set back a minimum of 50 feet from each boundary line of the lot on which the installation is located.

- H. **Appurtenant Structures:** The site and appurtenant structures shall be subject to all applicable provisions of these bylaws, and such other reasonable standards as the Planning Board may determine, concerning bulk and height, lot area, setbacks, open space, parking, building coverage requirements and use restrictions. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

I. **Utilities:**

1. **Notification:** No Solar Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

2. **Connections:** All utility connections from the installation must be placed underground unless it is impracticable to do so. The Planning Board will determine impracticability on the basis of soil conditions, shape and topography of the site and the requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

J. **Monitoring and Maintenance:** The owner or operator shall monitor access to and safety of the site and shall maintain the facilities in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, integrity of security measures, and landscape maintenance. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the installation and site and any access road(s) (unless accepted as a public way).

K. **Decommissioning Requirements**

1. **Discontinuance of Operations:** Any Solar Installation that has reached the end of its useful life shall be decommissioned. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for decommissioning. The owner shall complete decommissioning of the installation no more than 150 days after the proposed date of discontinued operations. Decommissioning shall consist of:
 - a. physical removal of the Solar Installation, all structures, equipment, security barriers and transmission lines from the site;
 - b. disposal (including recycling to the extent possible) of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - c. stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
2. **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Solar Installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The owner of an abandoned Solar Installation must complete the decommissioning of the installation in accordance with the

- requirements of section 15.5.K.1 above within 150 days of the date the installation has been deemed abandoned.
3. **Lease Expiry:** If, upon expiry of any term of the ground lease for the Solar Installation, the lease is not renewed, the owner of the Solar Installation must complete the decommissioning of the installation in accordance with the requirements of section 15.5.K.1 above within 150 days of the expiry of the lease.
 4. **Failure to Decommission:** If the owner of the Solar Installation fails to complete the decommissioning as required, the Town may enter the property and physically remove the installation and otherwise complete the decommissioning.
 5. **Financial Surety:** The owner of a Solar Installation shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of decommissioning in the event the Town must decommission the installation. The Planning Board shall determine the amount and form of the surety. Such surety will not be required for Town- or State-owned facilities.

DEVELOPMENT GUIDELINES

These are not part of the Zoning Bylaws.

[A copy of these Guidelines shall be given to all: a) persons applying for a subdivision; b) purchasers of lots and their architects; c) persons applying for a building permit.]

Historical Background

Chilmark is the most geologically complex section of Martha's Vineyard, due to the intermingling of the three latest terminal moraines which, with the relatively small section of the outwash plain (on the South shore), provide the town with its natural assets of physical beauty, variety of landscapes, irregular terrain, hills, ponds and shorelines.

A. Purpose of these Guidelines

To minimize the impact of all development in Chilmark to protect the Town's rural, scenic and natural qualities and adhere to the goals of Chilmark's Master Plan, Open Space Plan and Zoning By-Laws.

B. Preservation of Open Space

1. Preserve sufficient open space so that the uninhabited areas of the town are predominate.
2. Protect natural features of the landscape such as scenic points, water courses, large trees, historic spots and similar community assets.
3. Protect agricultural land and uses.
4. Retain existing woodland areas large enough to be sanctuaries for wildlife. Retain existing trails; create new ones.
5. Do not disturb wetlands; check with the Conservation Commission before doing any work near wetlands and coastal areas. Do not use pesticides or herbicides in these areas.
6. Avoid altering the natural landscape. Minimize the size of lawns and recreational facilities. (Chemical pesticides and fertilizers are not allowed in some areas. Organic products are permissible.)
7. Use native species for landscaping; retain natural vegetation on slopes.
8. Use flexible siting (Article 6.7 of the Chilmark Zoning By-Laws) to provide dedicated open space.

C. Roads and Driveways

1. Minimize grading. Build roads that curve to fit the landscape and that require slow speeds. Add speed bumps where necessary.
2. Retain natural buffer areas to screen structures and parking areas from roads, water bodies and neighboring houses.
3. Provide shared driveway entrances where possible.
4. For details of road construction refer to Appendix C of the Planning Board Rules and Regulations.

D. Siting and Design of Structures

1. Maintain the visual integrity of ridge lines and hilltops by keeping roof-tops and other construction below the ridge line and at least 10 feet below the average height of the existing trees on wooded ridges or hilltops.
2. Grading and earth removal should be executed so that contours of the land are the same as those previously existing on the site and adjacent to it.
3. In open land, site houses behind fields against the background of adjoining woodlands.
4. Site all structures to minimize visibility from roads, water bodies, and neighboring properties. Take care not to block neighbors' views.
5. Design structures that harmonize with the landscape and are compatible with the scale and character of existing Chilmark architecture.
6. Use materials, textures and colors which are typical of Chilmark's architectural traditions.
7. Place all wiring and appurtenances of electric power, communications and fire alarm systems underground.
8. Preserve visibility of the night sky by shielding all external lights (see Article 5 in Zoning Bylaws).

INDEX

A	Section	Page
Abandoned Use	Section 8.5	8-1
Accessory Apartment (Use Regulations: Accessory Uses)	Section 4.2A	4-7
Accessory Apartment, Definitions	Section 2.25	2-4
Accessory Apartment (Exception for Accessory Apartments-Privately Owned Properties)	Section 6.12	6-13
Accessory Building	Section 2.0	2-1
Accessory Uses	Section 4.2A	4-2
Additions to Houses in the Shore Zone	Section 11.6.A.2.b.1)	11-4
Administration	Article 9	9-1
Advisory Report from Planning Board	Section 9.5	9-2
Affordable Housing	Section 2.21	2-4
Agricultural-Residential District I - Permitted Uses	Section 4.1	4-1
Agricultural-Residential Districts II-A, II-B, III, IV, V,VI Permitted Uses	Section 4.3	4-13
Amendments (See Summary - pp. 2 and 3)	Sections 8.7, 10.0	8-2,10-1
Amendments, Summary of		i-v
Appeals	Section 9.9	9-2
Application for Special Permit or Variance	Section 9.3	9-1
Article 1 - Purpose		1-1
Article 2 - Definitions		2-1 – 2-5
Article 3 - Establishment of Districts		3-1 – 3-3
Article 4 - Use Regulations		4-1 – 4-14
Article 5 – Signs & Outdoor Lighting, Ext. Mechanical Noise Abatement		5-1 - 5-3
Article 6 - Dimensional and Density Requirements		6-1 – 6-15
Article 7 - Rate of Development		7-1-7-2
Article 8 - Non-Conforming Uses		8-1- 8-2
Article 9 - Administration		9-1 – 9-2
Article 10 - Amendments		10-1
Article 11 - Districts of Critical Planning Concern (Overlay Districts)		11-1 – 11-9
Article 12 - Squibnocket Pond District		12-1 – 12-6
Article 13 – Wild and Scenic North Shore Overlay District		13-1 – 13-2
Article 14 – Menemsha, Nashaquitsa & Stonewall Ponds Overlay District		14-1 – 14-2
Article 15 – Large-Scale Ground Mounted Solar Photovoltaic Installation District		15-1 – 15-6
 B		
Barn	Section 2.1	2-1
Bed & Breakfast	Section 4.2	4-7
Board of Appeals	Section 9.1	9-1
Boundaries of Districts I - VI	Section 3.1	3-1 – 3-3
Building Cap	Section 7.1	7-2
Building Permits	Section 9.2	9-1

INDEX

C

Caregiver, Definition (Accessory Apartments)	Section 2.26	2-4
Causeway	Section 11.6, 12.3	11-3, 12-2
Change of Use	Section 8.1	8-1
Chilmark Roadside District	Section 11.6.C	11-5
Coastal District	Section 11.6.A	11-3
Conversion of a Barn	Section 4.2: A6 & B3	4-6 & 4-8
Conversion of a One-Family Dwelling	Section 4.2.B.2	4-8
Criteria for Special Permit or Variance	Section 9.8	9-2
Curved or Rounded Roof	Sections 2.1.1, 6.2	2-1, 6-1

D

Definitions	Article 2	2-1 – 2-4
Designated Areas	Section 11.6	11-2 – 11-7
Development Definition	Section 11.4	11-1
Developments of Regional Impact	Section 11.7	11-8
Dimensional and Density Requirements	Article 6	6-1-6-8
Districts of Critical Planning Concern (Overlay Districts)	Article 11	11-1 – 11-8
Driveway	Section 2.12	2-2
Dukes County Regional Housing Authority (DCRHA)	Section 2.21, 6.9, 6.10, 6.12	2-4, 6-5, 6-7, 6-8, 6-13, 6-15
Dwelling	Section 2.2	2-1

E

Enforcement	Section 9.0	9-1
Establishment of Districts	Article 3	3-1
Exception for Affordable Rental Housing	Section 6.10	6-8
Exceptions for Building Additions (re Residential Building Size Regs.)	Section 6.11, B.3	6-10
Exceptions for Building Additions (Historic House)	Section 6.11, B.3, d.	6-10
Exception to Height Limitations	Section 6.3	6-2
Exception to Minimum Lot Size Regulation and Youth Lot	Section 6.4	6-2
Exception to Minimum Setback	Section 6.6	6-3
Expansion of Conforming Use	Section 8.2	8-1
Expansion of Non-Conforming Use	Section 8.3	8-1

F

Family, definition	Section 2.17	2-3
Flat or Shed Roof	Sections 2.3, 6.2	2-1, 6-2
Flexible Siting	Section 6.7	6-3
Floor Area	Section 2.11	2-2
Frontage (See Requirements for Road Frontage & Lot Widths)	Section 6.8	6-4

G

Gabled or Hip Roof (See also Height Limitations)	Sections 2.4, 6.2, 6.3	2-1, 6-2
--	------------------------	----------

INDEX

Gasoline Station	Section 4.2B	4-7
General Regulations for the District (Squibnocket Pond)	Section 12.6	12-5
Guest House	Sections 2.5, 4.2	2-1, 4-2
Guest House (conversion of a Historic House to a Guest House)	Section 4.2A	4-2
H-K		
Height Limitations	Section 6.2	6-2
Historic House	Section 2.27	2-5
Home Occupation	Section 4.2A	4-2
Homesite Housing	Section 6.9	6-4
Inland Zone	Section 11.6	11-3
Inn	Section 4.2B	4-8
Intent	Section 11.5	11-2
L		
Lighting - Outdoor	Section 5.5-5.8	5-1 - 5-3
Location of Districts	Section 3.1	3-1
Lot, definition	Section 2.6	2-1
Lots Transferred, rate of development	Section 7.0	7-1
M		
Maps, Zoning	Maps	M-1 - M-3
Maximum Development, rate of development	Section 7.0	7-1
Maximum Height	Section 2.7	2-2
Meetinghouse Road and Tiasquam River District	Section 11.6	11-7
Menemsha, Nashaquitsa & Stonewall Ponds Overlay District	Article 14	14-1
Minimum Development, rate of development	Section 7.0	7-1
Minimum Lot Size and Setbacks	Section 6.0	6-1
N		
No Reversion	Section 8.6	8-1
Non-Accessory Uses	Section 4.2.B	4-7
Non-Conforming Uses, General	Section 8.0	8-1
Exception (Shore Zone, etc.)	Section 11.8	11-9
O		
One-Family Dwelling	Section 2.16	2-3
Original Zoning Bylaw (see front page of Zoning Bylaws)	Section 10.2	10-1
Outdoor Lighting - Definitions	Section 5.6	5-2
Outdoor Lighting - Exceptions	Section 5.8	5-2
Outdoor Lighting - Purpose	Section 5.5	5-1
Outdoor Lighting - Regulations	Section 5.7	5-2
P		
Permitted Uses, (See also Use Regulations)	Section 4.0	4-1

INDEX

District I	Section 4.1	4-1
Districts II-A, II-B, III, IV, V, VI	Section 4.3	4-12
Signs	Section 5.1	5-1
Squibnocket Pond Dist.	Section 12.3	12-1
Pre-Existing Lots	Section 6.1	6-1
Private Club	Section 4.2	4-7
Procedure (Critical Planning Districts)	Section 11.3	11-1
Procedures for Special Permit or Variance	Section 9.6	9-1
Prohibited Uses (Signs)	Section 5.3	5-1
Purpose, General	Section 1.0	1-1
Critical Planning (Overlay) Districts	Section 11.0	11-1
Squibnocket Pond District	Section 12.0	12-1
R		
Rate of Development	Section 7.0	7-1
Removal of Gravel, Loam, Sand and Stone	Section 4.2.B.4	4-8
Requirements for Road Frontage and Lot Widths	Section 6.8	6-4
Residential Building Size Regulations	Section 6.11	6-9
Restoration (non-conforming structure or use)	Section 8.4	8-1
Roadside District (see Chilmark Roadside District)	Section 11.6.C	11-5
Room Rentals	Section 4.2.A.7	4-6
Rounded Roof	Sections 2.1.1, 6.2	2-1, 6-1
S		
Satellite Dishes	Section 4.2	4-7
Segment	Section 2.8	2-2
Setbacks, Minimum Lot Size and	Section 6.0	6-1
Roadside Dist. Min. Setbacks in Relation to Heights	Section 11.6.C.2.b.	11-5
Shed Roof Dormer	Section 4.1	4-1
Shore Zone	Section 11.6	11-3
Signs	Section 5.0	5-1
Signs in Existence	Section 5.4	5-1
Signs, Prohibited Uses	Section 5.3	5-1
Silo	Section 2.9	2-2
Site Review Committee	Section 11.2	11-1
Solar, Large-Scale Ground Mounted Photovoltaic Installation District	Section 15	15-1
Special Permit or Variance Data Requirements	Section 9.4	9-1
Special Places District	Section 11.6.D.	11-6
Squibnocket Pond Advisory Committee	Section 12.5	12-5
Squibnocket Pond District	Maps, Article 12	M-3, 12-1
Stone walls	Section 11.6.A.2.c.2)	11-6
Streams and Wetlands Draining into Coastal Great Ponds	Section 11.6.B.	11-5

INDEX

Structure	Section 2.10	2-2
Supplementary Regulations, Critical Districts	Section 11.1	11-1
Swimming Pool	Section 4.2.A.3.	4-4
T		
Temporary Lighting	Section 5.8	5-2
Tennis Court	Sections 2.28, 4.2.A.3.	2-5, 4-4
Time Limit on Special Permit or Variance	Section 9.7	9-2
Total Living Area	Section 2.24, 6.11	2-4, 6-9
Two-Family Dwelling	Section 2.15	2-2
Types of Districts	Section 3.0	3-1
U		
Unlicensed Vehicles	Section 4.2.A.5	4-6
Use Regulations	Section 4.0	4-1
Use Specially Permitted by Planning Board (Signs)	Section 5.2	5-1
Use, Accessory	Section 2.14	2-2
Use, Principal	Section 2.13	2-2
Uses Allowed by Special Permit or by License (Squibnocket)	Section 12.4	12-3
Uses Not Permitted - Swimming Pools & Tennis Courts	Sections 11.6.A.3&B3	11-4
Uses Specially Permitted by Board of Appeals	Section 4.2	4-1
V		
Validity	Section 10.1	10-1
W		
Wascosim's Rock Special Place DCPC	Maps	M-2
Boundaries, permitted uses, etc.	Section 11.6.D.2	11-6
Wild and Scenic North Shore Overlay District		13-1
Windmill	Section 4.2.A.4	4-5
Wireless Communications Equipment & Facilities	Section 4.2.B.6	4-9
Y		
Youth Lot (Exception To Minimum Lot Size Regulation)	Section 6.4	6-2
Z		
Zone A (Squibnocket Pond District)	Section 12.2.A.	12-1
Zone B1 and Zone B2 (" " ")	Section 12.2.B.	12-1-12-2
Zone C (" " ")	Section 12.2.C.	12-3
Zone D (" " ")	Section 12.2.D.	12-3
Zones Within the District	Section 12.2	12-1
Zoning Map	Section 3.2	3-3
Zoning Map of Chilmark	Maps	M-1