



# Warrant for Annual Town Meeting

April 22, 2019

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-second~~ day of April in the year Two Thousand and Nineteen 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-fourth day of April in the year Two Thousand and Nineteen 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 Board of Selectmen          | 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 |
| Two Members of the Finance Advisory Committee | for three years |
| One Member of the Cemetery Commission         | for three years |
| One Member of the Cemetery Commission         | for one year    |
| One Member of the Planning Board              | for five years  |
| One Member of the Planning Board              | for three years |
| One Member of Site Review Committee           | for three years |
| One Fence Viewer                              | for three years |
| One Surveyor of Wood, Lumber and Bark         | for three years |
| One Tree Warden                               | for one year    |
| One Moderator                                 | for three years |
| One Treasurer                                 | for three years |

Question 1. Shall the Town of Chilmark be allowed to assess an additional \$49,335.00 in real estate and personal property taxes for the purposes of funding the Feasibility Study & Schematic Design at the MV Regional High School for the fiscal year beginning July 1, 2019? 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 bonds issued in order to pay costs of purchasing the Carroll property, so-called, located at 399 Middle Road, consisting of 1.400 acres, more or less, as shown on the Chilmark Assessors' records as parcel 026-94-0, and for the payment of any and all other costs incidental and related thereto? Yes No

Question 3. 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 bonds issued in order to pay costs of architectural services to design the Fire Station at 3 Menemsha Cross Road and the EMS building at 399 Middle Road, and for the payment of any and all other costs incidental and related thereto? Yes No

Question 4. Shall the Town of Chilmark be allowed to assess an additional **\$27,243.55** in real estate and personal property taxes for the purposes of funding the Dukes County Regional Emergency Communication Center radio system upgrade maintenance for the fiscal year beginning July 1, 2019? Yes No

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**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 FY2020 Budgeted Reserve Fund Balance.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**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 - 7 Ayes - 0 Nays

**ARTICLE 5.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$40,000.00** for a Reserve Fund to be administered by the Finance Advisory Committee, for the fiscal year beginning July 1, 2019.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 6.** To see if the town will vote to raise and appropriate the sum of **\$15,000.00** to fund the Reserve Fund for the Future Payment of Accrued Liabilities for Compensated Absences.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 7.** To see if the town will vote to transfer from available funds in the treasury the sum of \$169,000.00 to the town's stabilizations funds as follows:

**\$70,000.00** to be placed in the General Stabilization Fund,

**\$25,000.00** 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,

**\$24,000.00** to be placed in the Police Vehicle Stabilization Fund,

**\$50,000.00** to be placed in the Highway Stabilization Fund.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 8.** To see if the town will vote to adopt a general bylaw regarding the **Release of Balloons:**  
(1) No person, nonprofit organization, association, firm or corporation, shall knowingly release, organize the release of or intentionally cause to be released into the atmosphere any helium or other lighter-than-air gas balloons in the town of Chilmark. Any violation of this bylaw shall result in a fine of \$100.  
(2)The provisions of section (1) shall not apply to balloons which are used for the purpose of carrying scientific instrumentation during the performance of an experiment or testing procedure or by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.

Submitted by petition of: ABRAMS, PINTO F. BECKER, MELANIE D. BENJAMIN, JESSICA NOELLE BISKIS, ELLEN BISKIS, TAURAS ANTANAS BOYD, MARY M. BROYARD, ALEXANDRA CARROLL, TIMOTHY ROBERT CHRISTY JENNIFER L. EARLY, ALICE C. HEPLER, LAWRENCE HOMER HOWLAND, ABIGAIL FORBES MALKIN, JAMES M.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 9.** To see if the Town will vote to approve the following general bylaw, or take any action relative thereto:

**Plastic Water and Soft Drink Bottle Bylaw Section 1: Findings and Purpose**

Water and soda bottles made of plastic are hazardous to health, economy, and the environment. The purpose of this bylaw is to restrict the sale and distribution of such bottles.

For example:

1. Plastic bottle waste is overwhelming society's ability to manage it. Americans discard an estimated 30 million tons of plastic annually, with only 8 percent recycled.
2. Chemical components of plastic are detected in biological systems, including human beings. Exposure comes through food, water, and clothing, and has been associated with a range of health effects.
3. More than 8 million tons of plastic flows into our oceans annually, impacting wildlife and breaking down into smaller and smaller pieces, called micro-plastics.
4. Micro-plastics are found in the fish and shellfish we eat, and in the bottled water we drink.
5. Action is occurring worldwide to address this problem. Regionally, Nantucket and several MA towns have banned plastic water bottles.
6. Action on Martha's Vineyard includes placement of water bottle refill stations in every school and in public places. More are planned.
7. This Island community has an opportunity to provide leadership to reduce reliance on plastic. It is the right thing to do for the sake of our food, our water, our health, and our planet.

**Plastic Water and Soft Drink Bottle Bylaw Section 2: Regulated Conduct**

2.1 It shall be unlawful to sell or distribute (a) non-carbonated, unflavored water, and (b) soft drinks in plastic (including polyethylene terephthalate – PET) bottles of less than 34 ounces in the Town of Chilmark. For the purposes of this bylaw, 'soft drink' means any beverage containing carbonated water, a sweetener (including fruit juice) and/or a flavoring.

2.2 Sales or distribution of drinking water in plastic bottles occurring subsequent to a declaration (by the Emergency Management Director or other duly authorized Town, County, Commonwealth or Federal official) of an emergency affecting the availability and/ or quality of drinking water to residents of the Town shall be exempt from this bylaw until seven days after the declaration has ended.

3.1 Enforcement of this bylaw shall be the responsibility of the Board of Selectmen or its designee(s). The Board of Selectmen shall determine the inspection process and shall incorporate the process into other Town duties as appropriate.

3.2 Any person, individually or by his servant or agent, who violates any provision of this bylaw may be penalized by a non-criminal disposition pursuant to G.L. Chapter 40, Section 21D and the Town's non-criminal disposition bylaw. The following penalties apply:

first violation:	Written warning
second violation:	\$50 fine
third and subsequent violations:	\$100 fine

Each day the violation continues constitutes a separate violation.

#### **Section 4. Suspension of the Bylaw**

4.1 If the Board of Selectmen determines that the cost of implementing and enforcing this bylaw has become unreasonable, the Board of Selectmen shall conduct a Public Hearing to inform the citizens of such costs. Subsequent to the Public Hearing, the Board of Selectmen may continue this bylaw in force or may suspend it permanently or for such length of time as they may determine.

#### **Section 5: Effective Date** 5.1 This bylaw takes effect on January 1, 2020.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 10.** To see if the town will vote to raise and appropriate the sum of **\$169,136.00** to pay the Town's share of the Up-Island Regional School District's window replacement project at the Chilmark School providing design, procurement, installation, project management, and any costs incidental and relative thereto, provided that this appropriation be contingent on the approval of a Proposition 2½ capital outlay expenditure exclusion under General Laws Chapter 59, § 21C(i½). Further provided, however, the other two member Towns of the District approve in their share of the total project costs of \$211,420.

Submitted by: Up-Island Regional School District

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 11.** To see if the Town will vote to approve the transfer of the sum of \$316,267.99 in funds from the Excess and Deficiency Fund of the Martha's Vineyard Regional High School (the "District") to the general funds of the District for fiscal year 2020 and, in addition, to raise and appropriate the sum of Forty-nine thousand three hundred thirty-five dollars (**\$49,335.00**), all of such sums to be paid to the District and expended under the direction of the School Committee for the District, for the purpose of funding a feasibility study and schematic design work in connection with possible new construction of and/or renovations to the high school building and grounds located at 100 Edgartown – Vineyard Haven Road, Oak Bluff, Massachusetts, such feasibility study and schematic design work to include, but is not limited to, the hiring of architects, engineers and an owner's project manager; such sums to be in addition to the sums paid by the Town pursuant to the Regional High School Assessments under the FY2020 budget for the School District; or to take any other action relative thereto; provided that the amount set forth shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 24<sup>th</sup> 2019 vote in the affirmative to override proposition 2½. and; The Town's approval of said transfer of funds from the

District's Excess and Deficiency Fund and the Town's obligation to pay the additional \$49,335 to the Martha's Vineyard Regional School District is conditioned upon both the approval of the transfer of funds from the District's Excess and Deficiency Fund by the other Member Towns of the District and the appropriation by the other Member Towns of the District of their proportionate share of the overall cost of such feasibility study and schematic design work, after application of the District's Excess and Deficiency Fund monies authorized for transfer hereunder, such proportionate share to be calculated pursuant to the applicable formula in the Regional Agreement;

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 12.** To see if the town will vote to raise and appropriate the sum of **\$19,379.00** to fund the FY2020 costs for two school programs:

- **\$7,979.00** to fund the Town's share of the administrative expenses of the All Island School Committee's contract for Adult and Community Education in Fiscal Year 2020.

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

- **\$11,400.00** to pay to the MV School Superintendent Union as the Town's appropriate share (11.4%) of 50 % of the net cost of the Martha's Vineyard Youth Task Force, to collaborate with police, schools, parents, providers and businesses in a community wide youth substance abuse prevention program for fiscal year 2020.

Submitted by MV Superintendent's Office and MV Youth Task Force

Recommended by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

**ARTICLE 13.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$30,219.00** for the following three school projects:

- **\$16,080.00** to pay the Town's share of the Up-Island Regional School District's flooring project at the Chilmark School providing design, procurement, installation, project management, and any costs incidental and relative thereto. Provided, however, the other two member Towns of the District approve in their share of the total project costs of \$20,100.
- **\$11,061.00** to pay the Town's share of the Up-Island Regional School District's outdoor decking project at the West Tisbury School providing design, procurement, installation, project management, and any costs incidental and relative thereto. Provided, however, the other two member Towns of the District approve in their share of the total project costs of \$93,820.
- **\$2,358.00** to pay the Town's share of the Up-Island Regional School District's design of a parking lot at the West Tisbury School providing design and project management, and any costs incidental and relative thereto. Provided, however, the other two member Towns of the District approve in their share of the total project costs of \$20,000.

Submitted by: Up-Island Regional School District

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 14.** To see if the Town will vote to appropriate \$900,000, to pay costs of purchasing the Carroll property, so-called, located at 399 Middle Road, consisting of 1.400 acres, more or less, as shown on the Chilmark Assessors' records as parcel 26-094-0, and for the payment of all other costs incidental and related thereto, and to determine whether this amount shall be raised by taxation, transfer from available funds, borrowing, or by any combination of the foregoing, or to take any other action relative 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 M.G.L. c. 44,

§7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

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

**ARTICLE 15.** To see if the Town will vote to appropriate \$200,000 to pay costs of architectural services to design the Fire Station at 3 Menemsha Cross Road and the EMS building at 399 Middle Road, 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 M.G.L. c. 44, §7(7), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

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

**ARTICLE 16.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$3,206.50** to pay two bills of a prior fiscal year:

- **\$2,355.46** to pay the bill of Bull Dog Fire Apparatus for the Fire Department.
- **\$206.50** to pay a bill of Bruno's for the Beach Department.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 17.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$60,000.00** to purchase and install a Cold Climate Heat Pump HVAC system for the Chilmark Community Center, and further appropriate the sum of \$30,000.00 to be received from the Chilmark Town Affairs Council, subject to receipt, which amounts are to be added to this appropriation.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 18.** To see if the town will vote to raise and appropriate the sum of **\$12,000.00** to replace the backup generator at the Chilmark Community Center.

Recommended by the Finance Advisory Committee - 6 Ayes - 1 Nay

**ARTICLE 19.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$13,000.00** to purchase and install a replacement HVAC Air Handler & Condenser at the Town Hall.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 20.** To see if the town will vote to transfer from available funds in the treasury the sum of **\$3,500.00** for upgrades to the file servers at the town hall.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 21.** To see if the town will vote to raise and appropriate the sum of **\$31,092.00** to pay the FY2020 operating costs of five regional services provided through Dukes County:

- **\$5,985.00**, as the Town's proportionate share of the Fiscal Year 2020 cost to fund the **Dukes County Social Services**, based on the "50/50" formula.

- **\$9,576.00** to fund the **CORE** program under the supervision of the Up Island Council on Aging.
- **\$8,193.00**, as the Town's proportionate share of the Fiscal Year 2020 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.
- **\$3,591.00**, as the Town's proportionate share of the Fiscal Year 2020 cost to fund the **Dukes County Substance Use Disorder** prevention programs, based on the "50/50" formula.
- **\$3,747.00**, as the Town's proportionate share of the Fiscal Year 2020 cost to fund the Healthy Aging Task Force **FIRST STOP**, based on the "50/50" formula.

Submitted by the Dukes County Commissioners

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 22.** To see if the town will vote to raise and appropriate the sum of **\$16,560.00** to fund the Dukes County Other Post- Employment Benefits (OPEB), provided that all six towns vote in the affirmative.

Recommended by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

**ARTICLE 23.** To see if the Town of Chilmark will raise and appropriate the sum of **\$\$27,607.43** of the Town's proportionate share of the fiscal year 2020 maintenance cost of the State-funded development and upgrades of the Dukes County Regional Emergency Communication Center and Radio System, such share based on 50% call volume per town and 50% 1/6<sup>th</sup> equal share of the total request; and to authorize the Selectmen to negotiate and execute a Cooperative Agreement with Dukes County Sheriff's Office for payment of such costs, provided that no funds shall be expended hereunder unless and until an Inter Governmental Agreement to address the governance of the RECC and the expenditure of these funds mutually acceptable to the Towns and the Sheriff is executed, that all six towns appropriate for this request, and further provided that the amount set forth shall be raised and appropriated only if a majority of voters casting ballots at the Annual Town Election to be held on April 24th 2019 vote in the affirmative to override proposition 2½.

Submitted by Sheriff Robert Ogden

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 24.** To see if the town will vote to raise and appropriate the sum of **\$39,000.00** to fund two Fire Department projects:

- **\$30,000.00** to purchase replacement rescue tools for the Fire Department.  
Recommended by the Finance Advisory Committee - 6 Ayes - 1 Nay
- **\$9,000.00** to fund the future upgrade of Fire Department radios.  
Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 25.** To see if the Town will vote to raise and appropriate the sum of Thirteen thousand four hundred fourteen dollars (**\$13,414**) to pay the Town's share of the Up-Island Regional School District's roofing project at the West Tisbury School (over the bell-wing) providing design, procurement, installation, project management, and any costs incidental and relative thereto. Provided, however, the other two member Towns of the District approve in their share of the total project costs of \$113,771.

Submitted by: Up-Island Regional School District

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 26.** To see if the town will vote to raise and appropriate the sum of **\$45,000.00** to fund the purchase of a replacement Police Cruiser.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 27.** To see if the town will vote to transfer the sum of **\$66,000.00** from the **Ambulance Receipts Reserved for Appropriation fund** for the purchase of 41 replacement AEDs.

Recommended by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 28.** To see if the Town will vote to approve the following four requests of the Community Preservation Committee:

- (1) To see if the Town will vote to reserve from the Community Preservation Fund FY 2020 estimated annual revenues up to the following amounts for community preservation projects: **\$32,000.00** for the Community Preservation Reserve for Open Space; **\$32,000.00** for the Community Preservation Reserve for Historic Resources; **\$32,000.00** for the Community Preservation Reserve for Community Housing; and **\$209,000.00** for the Community Preservation Budget Reserve.
- (2) To see if the Town will vote to approve the following request of the Community Preservation Committee: To see if the Town will vote to appropriate from the fiscal year 2020 Community Preservation Reserve for Community Housing Fund the sum of **\$50,000.00** to Island Elderly Housing, Inc. as Chilmark's contribution to fund the construction of five permanently affordable apartments for senior citizens earning approximately 60 percent of the Area Median Income. To fund this request \$50,000 will be transferred from the Community Preservation Undesignated Fund to the Community Preservation Reserve for Community Housing.
- (3) To see if the Town will vote to approve the following request of the Community Preservation Committee: To see if the Town will vote to appropriate from the FY 2020 Community Preservation Community Preservation Reserve for Community Housing Fund the sum of **\$10,000.00** as Chilmark's share to fund the acquisition of future housing for homeless residents earning up to approximately 30 percent of the county median income. The project will be managed by Harbor Homes of Martha's Vineyard, Inc. The funds shall not be released until a closing date is scheduled for the property. An appropriate homeless affordable housing deed restriction shall also be filed with the deed to the property. If the property is sold or its use changes, 100 percent of the funds shall be reimbursed to the Town of Chilmark CPA fund reserves. 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 reserve from the Community Preservation Fund FY 2019 estimated annual revenues up to the following additional amounts for community preservation projects: **\$6,449.00** for the Community Preservation Reserve for Open Space; **\$6,449.00** for the Community Preservation Reserve for Historic Resources; **\$6,449.00** for the Community Preservation Reserve for Community Housing. Our state matching amount was slightly higher than estimated and budgeted. This will bring the total FY 2019 reserve amounts to the minimum 10 percent of total FY 2019 CPA revenue as required by the Community Preservation Act.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 29.** To see if the Town will vote to authorize the Board of Selectmen to undertake a petition to be filed with the General Court of the state of Massachusetts for special legislation to preserve the public health, welfare and safety relative to the protection of groundwater sources of drinking water and watersheds from herbicide infiltration by requiring all governmental agencies and public utilities to undergo review and receive approval from the Town of Chilmark, so that the Town may prescribe, limit or prohibit **the application of herbicides and related chemical products** to control or eliminate vegetation on lands in the Town of Chilmark that are designated as sole source aquifers for the Town of Chilmark Water Supply or for individual and community private residential well water supplies or Watersheds.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 30.** To see if the Town will vote to enact a General Bylaw, entitled “**Stretch Energy Code**” for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 115.AA of the Massachusetts Building Code, 780 CMR, the Stretch Energy Code, including future editions, amendments or modifications thereto, with an effective date of January 1, 2020 a copy of which is on file with the Town Clerk, or take any other action relative thereto.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 31.** To see if the Town will vote to amend the Zoning Bylaws by adding the following new Article creating “**As-of-Right**” **Large Solar Installations**:

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.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

**ARTICLE 32.** To see if the town will vote to authorize the Board of Selectmen and Housing Committee to engage in discussions and negotiations with the Dukes County Regional Housing Authority and the other Island towns to develop a proposed Home Rule Petition in support of the formation of a Martha's Vineyard Housing Bank and submit same to the state legislature with the resulting enabling legislation to be voted on by the Towns once complete, public hearings should be held in each town prior to the submittal of the petition to the legislature, and to apportion a percentage of any short-term rental tax receipts in fiscal year 2020 to the Molly Flender Affordable Housing Trust, with the intention that such monies be used in support of the town's participation in the Martha's Vineyard Housing Bank upon its joining the Housing Bank.

**ARTICLE 33.** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court, in compliance with Clause (1), Section 8 of Article LXXXXIX of the Amendments of the Constitution, to the end that legislation be adopted precisely as follows. The General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments that shall be within the scope of the general public objectives of this petition.

## **AN ACT CREATING THE MARTHA'S VINEYARD HOUSING BANK**

### **Chapter \_ of the Acts of \_\_**

Section 1. There is hereby established a Martha's Vineyard Housing Bank (the "Housing Bank"), the purpose of which shall be to provide for the preservation and creation of year-round housing on the Island of Martha's Vineyard. The Housing Bank is hereby constituted a body politic and corporate and a public instrumentality and the exercise of the powers herein conferred upon the Housing Bank shall be deemed to be the performance of an essential governmental function.

Section 2. The Housing Bank shall be administered by a Housing Bank Commission consisting of seven (7) persons.

2.1 Membership: There shall be one (1) person who is a legal resident of each of the towns of Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury, each person to be elected to a 3-year term, in the same manner as other elected town officials. The initial terms, drawn by lot by the initial six (6) appointed members, shall be staggered so that two (2) members are elected each year, following the initial election of members, and each of the six (6) town boards of selectmen shall, respectively, appoint the initial six (6) members to serve from the effective date of this act until the first elections of the regular members at each town's regular or special town election after the effective date of this act. One (1) member shall be appointed to a 3-year term by the Dukes County Regional Housing Authority.

2.2 Vacancies: Should a vacancy occur during the term of the elected town commissioner, the town's Municipal Housing Trust ("MHT") and the board of selectmen shall jointly appoint an interim member to serve until the next scheduled town election.

2.3 Administration: Members shall serve without compensation. The initial appointed members shall adopt temporary rules and regulations to the extent necessary to conduct business until the regular members are elected. The Housing Bank Commission shall elect from among its regular members a chairman and a vice chairman and a secretary and a treasurer who may be the same person. The members of the Housing Bank Commission shall adopt, after holding a public hearing and after requesting recommendations from the Board of Selectmen of the six member towns that comprise the commission, rules and regulations for conducting its internal affairs and procedural guidelines for carrying out its responsibilities under this act.

2.4 Quorum: A quorum shall be four (4) or more members. Decisions of the Housing Bank

Commission shall be by majority vote at a meeting where a quorum is present. The Housing Bank Commission shall make rules regarding attendance. The Housing Bank Commission shall keep accurate records of its meetings and actions and shall file an annual report that shall be distributed with the annual report of each member town.

- 2.5 Conflict of interest: When members of the Housing Bank Commission hold other public offices and have to act in dual public positions, no conflict of interest shall be assumed in as much as both positions are serving the public interest and no compensation is received. However, if a Housing Bank Commission member or an MHT member also represents an organization that may benefit from a project being considered for a grant from the Housing Bank Commission, the member must declare a possible conflict of interest and shall not participate in the consideration and action on that grant application.

Section 3. Each Town's MHT shall assist the Housing Bank Commission in reviewing projects in their respective towns.

Section 4. The Housing Bank Commission shall, subject to this act, have the power and authority to:

- a) accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Housing Bank in connection with any ordinance or bylaw or any general or special law or any other source, including money from Chapter 44B, provided, however that any such money received pursuant to Chapter 44B shall be used exclusively for community housing and shall remain subject to all rules, regulations and limitations of that chapter;
- b) purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- c) sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Housing Bank property as the Housing Bank Commission deems advisable notwithstanding the length of any such lease or contract;
- d) execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Housing Bank Commission engages for the accomplishment of the purposes of the Housing Bank;
- e) employ regular staff, advisors and agents, such as accountants, appraisers and lawyers, as the Housing Commission deems necessary;
- f) purchase and retain and/or lease real property for the Housing Bank's internal administrative purposes and to dispose of same as and when the Housing Commission deems advisable.
- g) pay reasonable compensation and expenses to all employees, advisors and agents and to apportion such compensation between income and principal as the Housing Commission deems advisable;
- h) apportion receipts and charges between income and principal as the Housing Commission deems advisable, to amortize premiums and establish sinking

- funds for such purpose, and to create reserves for depreciation, depletion or otherwise;
- i) participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
  - j) deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Housing Commission may deem proper and to pay, out of Housing Bank property, such portion of expenses and compensation of such committee as the Housing Commission may deem necessary and appropriate;
  - k) carry property for accounting purposes other than acquisition date values;
  - l) borrow money on such terms and conditions and from such sources as the Housing Commission deems advisable, to mortgage and pledge Housing Bank assets as collateral;
  - m) make distributions or divisions of principal in kind;
  - n) comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Housing Bank, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Housing Commission may deem appropriate;
  - o) hold all or part of the Housing Bank property uninvested for such purposes and for such time as the Housing Commission may deem appropriate;
  - p) extend the time for payment of any obligation to the Housing Bank; and
  - q) adopt such regulations and procedures as it deems necessary or appropriate to provide funding for the implementation of any and all programs cited in section 4A of this act.

Section 4A. The Housing Bank may provide funding as described in this Act. Upon applications from non-profit and for-profit corporations and organizations and public entities in a competitive process which will include public notice of funding availability, and in a form prescribed by the Housing Bank, funding in the form of grants, loans, loan guarantees, lines of credit, interest subsidies, rental assistance or any other means determined to further the goals of the Housing Bank for eligible housing activities might be provided. Eligible activities shall include, but not be limited to, the following:

- Purchase and rehabilitation of existing structures for rental or home ownership;
- Construction of rental or home ownership housing and necessary infrastructure;
- Purchase of land, and any and all improvements including infrastructure and easements to be used for qualified housing;
- Down payment assistance, grants and soft second loans;
- Rental assistance programs;
- Modernization and capital improvements of existing rental and ownership housing;
- Housing counseling, predevelopment costs and technical assistance associated with creating housing projects and programs.

Section 4B. Each member town is hereby authorized to appropriate money to be

deposited in the Fund as provided in section 6.

Section 4C. The Housing Bank is authorized to issue bonds and notes to further the purposes of the Housing Bank but only if the issuance of these bonds or notes has been approved by a majority of the Trustees of all member towns' MHTs.

Section 40. The Housing Bank and all its revenues and income used solely by the Housing Bank in furtherance of its public purposes shall be exempt from taxation and from betterments and special assessments, and the Housing Bank shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions.

Section 5. All housing units created through funding by the Housing Bank under this act shall be deed restricted in perpetuity for the use approved for funding by the Housing Bank Commission.

Section 6. The Housing Bank Commission shall meet its financial obligations by drawing upon a fund to be set up as a revolving or sinking account of the Housing Bank Commission (the "Fund"). Deposits into the Fund shall include (a) funds appropriated, borrowed or transferred to be deposited into the Fund by vote of the county commissioners of the county of Dukes County or of town meetings of the towns represented in the Housing Bank Commission; (b) voluntary contributions of money and other liquid assets to the Fund; (c) grants of funds tendered to the Housing Bank by each member town in connection with any ordinance or bylaw or any general or special law or any other source, including without limitation state and/or federal grants.

All expenses lawfully incurred by the Housing Bank Commission in carrying out this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the Housing Bank Commission only upon submission of warrants duly approved by the Housing Bank Commission. The Housing Bank Commission treasurer shall prudently invest available assets of the Fund in accordance with the regulations and procedures adopted by the Housing Bank Commission under sections 2.3 and 4(q), and all income from its investments shall accrue to the Fund.

Section 6A. Money from the Fund may be expended by the Housing Bank Commission, subject to approval of a majority of the Trustees of the MHT of the town in which a project is located. In cases of regional housing projects, money from the Fund may be expended subject the permission of a majority of the Trustees of the MHTs of each town in which the project is located.

Section 7. The Housing Bank Commission shall keep a full and accurate account of its actions including a record as to when, from or to whom, and on what account money has been paid or received under this act. These records or accounts shall be subject to examination by the director of accounts or the director's agent pursuant to section 45 of chapter 35 of the General Laws.

Section 8. This act, being necessary for the welfare of the member towns and the island of Martha's Vineyard and their inhabitants, shall be liberally construed to effect its purposes.

Section 9. Acceptance of this act, by each of the towns of Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury shall be by the affirmative vote of

a majority of the voters at any regular or special town election at which the question of acceptance has been placed on the ballot. This act shall become effective on the date on which acceptance by no fewer than three (3) towns has been effected. Additional towns may elect to participate in the Housing Bank after the effective date of this act by affirmative vote of a majority of the voters at any regular or special town election at which the question of acceptance has been placed on the ballot.

Section 10. Any time after five (5) years from the date on which a town votes to accept this act in accordance with Section 9, any town that is a member of the Housing Bank may withdraw from it by the affirmative vote of a majority of the voters at any regular or special town election. A town that has withdrawn remains liable for any obligations prior to withdrawal. A town that has withdrawn may renew its membership by the affirmative vote of a majority of the voters at any regular or special town election at which the question of acceptance has been placed on the ballot.

If the Housing Bank is reduced to fewer than three (3) member towns, the Housing Bank shall be dissolved. Upon dissolution of the Housing Bank, title to all funds and other properties held by the Housing Bank shall vest in the towns of the Island of Martha's Vineyard as herein provided after provision is made for payment of all bonds, notes and other obligations of the Housing Bank.

Submitted by petition of:

James Feiner, Deborah Dunn, Susan Heilbron, Andrew Goldman, William Meegan, Helen Meegan, Emily Meegan, Chioke Morais, Mathea Morais, Jonah Maidoff, Ingrid Maidoff, Roger Cook, Meg Athearn, Dan Athearn, Marie Larsen, Janice Monteith Brown, Kristem Ferguson, Calder Martin, & Jessica Roddy

Not Recommended by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

**ARTICLE 34.** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a Special Act substantially in the form set forth below, provided that the General Court may make clerical or editorial amendments to the form of said proposed Special Act, and provided further that the Selectmen shall have the authority to approve and accept any such amendments that shall be within the scope of the objectives of this petition.

### **An Act providing funding for the Martha's Vineyard Housing Bank Chapter\_ of the Acts of\_**

Section 1. The Town of Chilmark has elected to impose a local excise tax upon the transfer of occupancy of a room in a short-term rental, as authorized by Section 3A of Chapter 64G of the General Laws and as further set forth in Section 6 of Chapter 337 of the 2018 Acts of Massachusetts. The Town has elected to impose said tax at the rate of four (4%) percent of the total amount of rent for each such occupancy.

Section 2. The Martha's Vineyard Housing Bank is a body politic and corporate, established under Chapter \_of the Acts of 20\_. Said Housing Bank is established under said Act for the sole purpose of the preservation and creation of year-round housing on the island of Martha's Vineyard, in the County of Dukes, as may be further defined in such Act and the regulations promulgated thereunder. Under Section 4B of said Act, the Town is empowered to appropriate funds for the benefit of said Housing Bank.

Section 3. Fifty (50%) percent of the total amount of tax collected by the Town of Chilmark under G.L. c. 64, as aforesaid, shall be appropriated and transferred to the Martha's Vineyard Housing Bank, such funds to be restricted for use by the Housing Bank for the preservation and creation of year-round housing on the island of Martha's Vineyard.

Section 4. This Act shall take effect upon both the effectiveness of the Town's election under G.L. c. 64G as aforesaid and the passage of the aforementioned Act creating the Martha's Vineyard Housing Bank.

Submitted by: James Feiner

Not Recommended by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

**ARTICLE 35.** To see if the Town, which has already imposed a local excise tax upon the transfer of occupancy of a room in a short-term rental based on Mass. Gen. L. ch. 646, Section 3A (as set forth in 2018 Mass Acts c. 337, s. 6), will dedicate in perpetuity three percent (3%) of the total amount of rent for each such occupancy to the Martha's Vineyard Housing Bank for the creation of housing on the Island. Funds collected under this section prior to the enactment of legislation creating the Housing Bank and fulfillment of all conditions precedent to its creation shall be held in a restricted account to be transferred to the Housing Bank when it is fully enacted and able to proceed.

Submitted by petition of:

James Feiner, Deborah Dunn, Susan Heilbron, Andrew Goldman, William Meegan, Helen Meegan, Chioke Morais, Mathea Morais, Jonah Maidoff, Ingrid Maidoff, Roger Cook, Meg Athearn, Dan Athearn, Marie Larsen, Janice Monteith Brown, Kristem Ferguson, Calder Martin, & Jessica Roddy

Not Recommended by the Finance Advisory Committee - 4 Ayes - 0 Nays - 3 Not Present

**ARTICLE 36.** . To see if the Town will vote to amend the Zoning Bylaws by amending Article 4 USE REGULATIONS as follows:

### **ACCESSORY USES**

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

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

A swimming pool and a tennis court are considered accessory to the use of a principle dwelling. The Town will adhere to the following process:

a. **Permitting and Enforcement:** A Special Permit is required for a swimming pool or tennis court. The Special Permit is issued by 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 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:** The purposes of this section and sections f ('Line-of-Sight Observation') and g ('Covers') below are to prevent a child from (a) gaining unsupervised access to, and use of, the pool, and (b) getting a foot hold to climb over any pool enclosure fencing (including any stonewall) or any nearby vegetation

1) The pool must be securely and completely enclosed and maintained on all sides with both a fence (or pool barrier) and self-locking gate(s) with the locks mounted on the pool-side of the gate(s). The fence and gate(s) must be not less than 4 feet in height above ground level. The fence must be child-proof. The exterior wall of a dwelling may serve as part of the pool enclosure if the applicant's design/construction meets all applicable state standards governing doors and windows between the dwelling and the pool area.

2) If a stonewall is used for any section of the fencing, it must meet the minimum height requirement, and the exterior stone joints must be filled with mortar and flush with the exterior face of the wall.

3) Any vegetative screening of the pool or the pool enclosure must be planted and maintained at least four feet outside the pool enclosure and at a height not to exceed four feet.

f. **Line-of-Sight Observation:** A pool must be situated so as to provide a clear and direct line of sight – not dependent upon by a closed circuit camera or other equipment enabling remote observation – from a highly used room or place, such as a kitchen, living room or outside deck, in the principal dwelling to the entire pool area. Any fencing and/or vegetative screening between the principal dwelling and the pool must not interfere with a clear line of sight.

g. **Covers:** All swimming pools must be equipped with a winter safety cover for off-season use and may be required to have an automatic, retractable pool cover.

h. **Energy Use:** If a swimming pool is heated, all pool-related pumps, filters, circulators and the heating system must be powered with solar or renewable energy that is consistent with current best practices as determined by the Board. Any on-site, renewable source of power must meet the requirements of section 4.2A3f ('Line-of-Sight Observation'). If a heating system is added to an existing swimming pool, a Special Permit is required prior to its installation and it must comply with this section.

i. **Light:** The swimming pool or tennis court must comply with sections 5.5, 5.6 and 5.7 of these bylaws. Submerged in-pool lights and path lights are permissible. Tennis courts must not be lighted.

j. **Noise:** The Board 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 Board. Any such equipment which the Board does not require to be so located must comply with the provisions of Article 5, section 5.9 of these bylaws.

k. **Landscaping and Visibility:** The purposes of this section are (a) to allow vegetative screening provided it does not unreasonably interfere with an abutting

property owner's enjoyment of their property and views from that property, and (b) to protect public vistas.

1) If the applicant/owner intends to plant any vegetation between the principal dwelling and pool or between the pool and an abutting property, a specific landscape plan may be required by the Board and, if so, it must be approved prior to implementation. Any vegetative screening, whether specifically allowed in the Special Permit or otherwise, must consist of native, non-invasive species. Any such vegetation must at all times comply with sections e ('Access and Enclosure') and f ('Line-of-Sight Observation') above.

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

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

**m. Initial Filling:** The initial filling of the pool must come from an off-site source and must not occur until the pool is in compliance with this bylaw.

**n. Drainage:** The concentration of potentially hazardous chemicals in the water must be significantly reduced and pool water must be 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 Wetland Protection Act).

**o. Maintenance of Equipment:** Pool fencing (including gates) and equipment (including the pool cover) must be maintained in good working order.

**p. Compliance with Laws:** The pool must meet all applicable State and Town laws and regulations governing pools. If there is any conflict between those laws or regulations and this bylaw, the more stringent applies.

NO ACTION taken by the Finance Advisory Committee - 7 Ayes - 0 Nays

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 5<sup>th</sup> day of March, A.D. 2019.

**Chilmark Board of Selectmen**

James M. Malkin, Chairman

William N. Rossi

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: \_\_\_\_\_

By: \_\_\_\_\_

Constable Marshall E. Carroll, III