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. 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

   c. 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.

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:

	Height:	Setback:
a.		
b.	17 feet or less	60 feet
c.	20 feet or less	80 feet
d.	24 feet or less	100 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.