

**Chilmark Zoning Bylaw for Pool/Tennis Court Proposed Amendment:**  
**Final Draft**  
**April 12, 2011**

*The Chilmark Planning Board develops By-laws for approval by the voters in Town Meeting, with opportunities for input during public hearings. The Chilmark Planning Board developed amendments to the Swimming Pool/ Tennis Court By-law. A Public hearing was advertised on November 24, 2010 and held on December 13, 2010 at 4:30 pm and continued to January 3, 2011, January 10, 2011, January 20, 2011 and February 14, 2011 when the Public Hearing was closed. The goals of these By-law amendments are to provide clarity of purpose, a clear set of procedures for applicants building pools and tennis courts and a set of guidelines for the Zoning Board of Appeals (ZBA) for the permitting process. Where possible, the By-laws reference the MA Building Code and existing Chilmark By-laws.*

**Article 2: Definitions:**

**2.22 Swimming Pools**

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.

*The proposed By-law includes a definition for swimming pools, based on MA Building Code definitions.*

**Article 4.2 A**

**Section 3.** Swimming Pool and/or Tennis Court. A swimming pool and a tennis court are considered accessory to the use of a principle dwelling. The Town will follow the current approved MA Building Code on Swimming Pools 780 CMR and will adhere to the following process:

*As in the current By-law, swimming pools and tennis courts are considered accessory uses, as opposed to principal use structures. The current approved MA Building Codes are referenced.*

**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 and is enforced by the Building Inspector.

*The proposed By-law clearly states the requirement for Special Permits for pools and tennis courts, citing the ZBA as the permitting authority and the Building Inspector as the enforcer.*

**b. Application:** The applicant/owner must own the principal dwelling for two (2) years before applying for a Special Permit for a swimming pool or tennis court. Principal dwelling ownership begins when an occupancy permit for the principal

dwelling is issued by the Building Inspector or from the date of transfer of property with an existing occupiable dwelling. Special Permits for new swimming pools and tennis courts may not be transferred to new owners.

*As in the current By-law, the proposed By-law still requires that a swimming pool applicant own the principal dwelling for two years before applying for a swimming pool permit. The proposed By-law provides additional definition of when the two year period begins for a new dwelling. The proposed By-law still states that special permits for new pools and courts may not be transferred to new owners.*

c. **Use:** Such swimming pool or tennis court is used only by the residents of the principal dwelling and their guests.

*Unchanged from the current By-law.*

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

*The fifty-foot setback requirement for the pool and tennis court is unchanged. Added is a provision for pool equipment, allowing the possibility that related equipment could be located within the setback if appropriately sound insulated, and at the discretion of the permitting authority (the ZBA).*

e. **Enclosure:** Swimming pool enclosures are required and must be in accordance with current MA Building Code 780 CMR 120.M. If a stone wall is used for fencing, it must meet MA State Building Code Guidelines for Solid Barrier Surfaces, 780 CMR 120.M 105 Barrier Requirements, Section 3.

*The By-law now cites MA State Building Code for enclosures.*

f. **Location:** The location of the swimming pool, related equipment or tennis court shall not materially impair the view of natural surroundings from a way used by the public, from public land or from abutting lots. For safety reasons, there must be a clear line of sight from the principal dwelling to the swimming pool, as determined by the Zoning Board of Appeals.

*The first sentence of this paragraph was in the existing By-law; now, it is modified slightly at the request of Town Counsel to make location enforceable by the ZBA. The second sentence was added at the request of the ZBA, as a safety measure.*

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

*This is a new requirement. It reflects concern that properties with swimming pools may not be occupied twelve months out of the year, and therefore represent unmonitored situations which could be unsafe.*

**h. Energy Use:** Heated swimming pools (including the heating system, pool related pumps, filters and circulators) are permitted if the heat is supplied by solar or alternative systems, which are the most current energy-efficient systems, as approved by the Zoning Board of Appeals. If a water heating system is added to an existing swimming pool, a Special Permit is required for the installation.

*The Energy Use section has been modified to include energy-efficient “alternative systems” that the ZBA will review and approve on a case-by-case basis. Any modification to add a heating system requires a Special Permit.*

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

*The proposed By-law now references the existing Chilmark Lighting By-law.*

**j. Noise:** The swimming pool and related equipment or tennis court must comply with Chilmark Zoning Bylaw Article 5, Section 5.9.

*The proposed By-law now references the existing Chilmark Noise Abatement By-law.*

**k. Screening and Landscaping:** A screening plan shall consist of native, non-invasive species, provided they are consistent with Article 4.2A, sections 3.f and 3.j and must be perpetually maintained for the life of the pool.

*These new requirements reference screening and newer By-law articles related to native plantings.*

**l. Fire Protection:** An accessible and functional standpipe is required for pools containing more than 7500 gallons of water with the design, placement and operation to be approved by the Chilmark Fire Chief.

*New requirement. The intent is for the Fire Department to have the ability to use the water in a swimming pool if needed to extinguish fires. The Chief needs to review and approve the design of the standpipe.*

**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 e. Enclosure and the pool area may be safely secured.

*New requirement. The intent is to have the pool filled by water sources other than the applicant’s well; concern is for the impact on the aquifer and the neighbors’ water sources.*

**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.

*This new requirement for planned draining of pools considers limiting environmental damage by letting chemicals lose their potency before action.*

### **EXISTING SWIMMING POOL BY-LAW**

3. Swimming pool and/or tennis court. A swimming pool and a tennis court may be considered accessory to the use of a dwelling, provided that:

- a. Such pool or court is used only by the residents of the dwelling and their guests,
- b. No portion of the pool or court is located within 50 feet of any boundary line of said lot,
- c. The pool is securely fenced and maintained with a child-proof fence, gates and doors to a height of not less than four feet.
- d. The location will not interfere with the enjoyment of the view of the natural surroundings from a way used by the public, public land, or abutting lot, and
- e. No lights are used in connection with the pool or court, except such lights as may be placed below ground level and illuminate only that portion of the facility located below ground level.
- f. The owner must own the principal dwelling for two (2) years before a swimming pool or tennis court may be built.
- g. Permits for pool/courts may not be transferred to new owners.
- 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.