

DRAFT

Residential Building Size Regulations Section 6.11

A. Purpose: The purpose of this Section is to ensure that residential construction is designed and carried out in a manner consistent with the purposes and objectives set out in Article 1 of these Zoning Bylaws. It seeks to ensure that future residential development does not overwhelm Chilmark's rural atmosphere; detract from its geographic diversity – its seashore, ponds, stonewall boundaries, open agricultural space – or the vistas from its roadsides; is built in scale with past development practices with regard to bulk and building coverage; and preserves the existing and historic rural development pattern and character of the Town as set forth in the Town Master Plan.

B. Definition

“Residential Built Area” means total livable floor space (including such space which, when developed or finished, would be livable, but excluding such space in a below-ground basement), and is calculated in the same manner that the Town Assessor calculates ‘gross living area’.

C. Applicability and Exceptions

1. **New Construction:** Subject to Sections C.2 and C.3 below, Section 6.11 applies to every application for a building permit for a project (including any proposed substantial reconstruction or renovation of an existing building) where, on completion of the project, the Residential Built Area of the lot would exceed 3500 sq ft for the first acre plus 250 sq ft for each additional acre (where the additional square footage per acre is applied pro rata for a portion of an acre).
2. **Building Additions:** Section 6.11.C.1 does not apply if the building permit is for a project which is an addition to an existing building if:
 - a. the project would result in the Residential Built Area exceeding the threshold set out in Section C.1 or
 - b. the Residential Built Area already exceeds the threshold set out in Section C.1 and the project would increase the Residential Built Area threshold set out in C.1 by less than 5%. The exceptions provided in this Section are a one-time only exception.
3. **Residential Built Area Limit:** No building permit for any project shall be granted if the project would result in the Residential Built Area of the lot exceeding 5500 sq ft for the first acre plus 250 sq ft for each additional acre (where the additional square footage

per acre is applied pro rata for a portion of an acre). (This Section shall not be construed to limit the size of dwellings which would otherwise be permissible under section 1.03 of the Rules and Regulations Governing the Subdivision of Land in Chilmark, provided the Residential Area of each such dwelling and its appurtenant living space is within the limits set out above for its respective portion of the lot.)

- D. **Initial Determination by the Building Inspector:** The Building Inspector will determine if any application for a permit for the building or construction of a building or structure would result in the Residential Built Area exceeding the threshold set out in Section C.1. If the Building Inspector determines that it would, the Building Inspector will advise the applicant who may make application to the Zoning Board of Appeals for a special permit. No building permit may be issued hereunder unless the Zoning Board of Appeals has granted a special permit.
- E. **Hearing before the Zoning Board of Appeals:** The Zoning Board of Appeals must hold a hearing within 65 days after the filing of an application therefor, notice of which shall be given at least 14 days prior to the date thereof. Notice shall be provided in accordance with the procedure set out in the Zoning Act. In addition to persons entitled to notice under the Zoning Act, the Zoning Board of Appeals may determine to also provide notice to:
1. property owners who would be considered abutters if a relevant public body of water were treated as if it were a public road; and/or
 2. property owners within 1000 feet of the applicant's property; and/or
 3. any road or pond association of which the applicant is entitled to membership; and/or
 4. all Town commissions and boards having jurisdiction over any aspect of the applicant's project.
- Any notice in addition to that required under the Zoning Act shall be at the expense of and otherwise solely the responsibility of the Town. The applicant is encouraged to participate directly in person at the hearing.
- F. **Documentation for a Hearing:** The applicant must provide schematic architectural drawings (ie scale dimensional drawings including a site plan, floor plans, sections and elevations) prior to the hearing. To assist the Zoning Board of Appeals in its deliberations, the Zoning Board of Appeals may:
1. require the applicant to furnish a model or computer rendering of the project and the surrounding area or other visual aid and such other information as the Zoning Board of Appeals considers necessary; and
 2. engage experts, including architects, engineers and consultants, and assess the applicant a fee(s) to reimburse such expenses.
- G. **Consideration by the Zoning Board of Appeals:** In reviewing an application for a special permit under this Section 6.11, the Zoning Board of Appeals must consider whether the project, when complete, would be visible, including during the winter, from public ways, water bodies, cemeteries and neighboring properties, and if so whether:

1. the impact of the project on the existing rural, scenic character of the site and the surroundings has been mitigated through building siting, building design and landscape design;
2. the project retains natural buffer areas or, where that is impracticable, provides sufficient landscape screening;
3. the project protects the natural features of the site and retains the natural landscape of the site after completion of construction;
4. the project avoids altering the natural landscape, minimizes the size of lawns and recreational facilities, uses native species for landscaping, and retains natural vegetation on slopes;
5. the project minimizes grading alterations and executes grading and excavation so that the contours of the land are the same following construction as those previously existing on the site and adjacent to it;
6. roads and other ways are designed to curve to fit the landscape and permit shared driveway entrances where possible;
7. the project maintains the visual integrity of ridge lines by keeping construction below the ridge line and at least 10' below the average height of the existing trees on wooded ridges and hilltops on the lot;
8. in open land, buildings are sited behind fields against the backdrop of adjoining woodlands;
9. the project preserves and protects natural features of the site such as scenic points, water courses, large trees, historic spots, traditional stone walls and similar community assets;
10. the project minimizes the impact of exterior and interior lighting on the surrounding area and minimizes glare from windows or other reflecting materials incorporated in the project.

H. **Determination by the Zoning Board of Appeals:** In considering the issues set out in Section G, the Zoning Board of Appeals must determine, as applicable, the degree of impact and any mitigating factors. If the Zoning Board of Appeals determines that the project has adequately addressed all relevant issues so that the concerns have been substantially mitigated, it may grant a special permit, which may contain conditions that mitigate the impact or otherwise ensure that the project is consistent with the purpose of this Section 6.11. Such conditions may include a deed restriction against future development and/or subdivision of the property. Any special permit granted under this bylaw shall lapse if the Building Inspector determines that substantial construction has not commenced within two years from the grant thereof including the time required to pursue and await the determination of any appeal thereto, except for good cause.

I. **Other Approvals/Amendments:** The procedure set out in this Section 6.11 is not exclusive of any other permit or approval that the applicant may otherwise be required to obtain. Amendments made to any element of the project, pursuant to or as a condition of any permit approval granted by any authority under these bylaws or otherwise, will require a further hearing before the Zoning Board of Appeals with notice as set out above.