

7. The non-conformance provision of Section VI-1 shall not apply, but those of VI-2 shall do so.

**Section XVIII Districts of Critical Planning Concern Regulations
for the Town of Oak Bluffs—Adopted by the Martha’s Vineyard Commission (12/21/76)**

1. Overlay Districts

These regulations are overlay regulations. Overlay regulations are separate regulations which are superimposed over existing zoning districts, zoning regulations, health regulations, conservation regulations and other land use regulations affecting the town. These overlay regulations are supplementary to such existing regulations. Where there is a conflict the more limiting regulations shall prevail. These regulations apply to all land, all development, all uses and all permits and approvals within the following districts: Coastal District, Island Road District, Special Places District, Copeland Plan District, Oak Bluffs Harbor District and the Southern Woodlands District.

A. Coastal District

(1.) Purpose

To prevent flood damage, maintain water quality, assure adequate water supply, prevent pollution, promote wildlife habitats, assure the maintenance of cultural and historic sites and values, preserve and enhance the character of views, prevent damage to structures, land and water as a result of erosion, promote economic development of fisheries and related industries, and maintain and enhance the overall economy of the island.

(2.) Definition

The Coastal District includes the land, streams and wetlands of Oak Bluffs which lie below ten (10) foot elevation above mean sea level, or within 500 feet of mean high water of a coastal water body exceeding ten (10) acres, or the ocean; and all land within 100 feet of streams and wetlands flowing into coastal water body; except that around East Chop it includes only the land lying less than ten (10) feet above mean sea level and the faces of the bluffs greater than 15 feet in height in the area bounded on the south by the junction of Commercial Avenue and Highland Drive, and thence around East Chop by the intersection of of Eastville Avenue extended to Vineyard Haven Harbor. The land bounded on the north by Highland Drive and on the south by Canonicus Avenue shall not be included within the Coastal District.

(3.) Coastal Regulations

Section XIII “Coastal Regulations” of the Oak Bluffs Zoning By-Laws is applicable within the District. No special permit for exception to the Coastal

Regulations may be granted unless it is consistent with the regulations, restrictions and allowable uses established herein for the Coastal District. Likewise, no permit granting authority shall construe that compliance with the regulations herein exempts an applicant from the regulations and procedures of Section XIII of the Zoning By-Law.

(4.) Establishment of Zones within the Coastal District Shore Zone

Consisting of the land from mean low water to 100 feet inland of the island edge of any dune grass, wetland indicator species or stream flowing into a coastal water body and land 100 feet inland of the crest of any bluff exceeding a height of 15 feet. (

(5.) Uses Permitted

Only those uses permitted in the respective Zoning District which are consistent with the fragile nature of the area, such as outdoor recreation, conservation purposes and agricultural purposes.

Within the Inland Zone, permitted uses also include detached single family dwelling and non-habitable, minor accessory structures normally used for personal, family and household purposes which are subject to the regulations and restrictions of Section XVIII 1A (7).

In addition, within the Inland Zone, permitted uses shall also include existing health care related uses, including, but not limited to, the following: hospitals, physician offices, nursing and convalescent homes, long term care facilities, laboratories, elder care and child care services establishments, substance abuse services and other uses associated with the maintenance and restoration of the physical and well-being of the residents of and visitors to Martha's Vineyard and other uses ancillary thereto.

(6.) Uses Requiring Special Permit from the Board of Appeals

(a.) Within the Shore Zone, the Board of Appeals may grant a Special Permit for any of the following:

(i.) Alterations to buildings and additions to existing residential structures, provided that such addition or alteration neither includes nor requires increased plumbing facilities or on site sanitary disposal facilities.

(ii.) Fish processing facilities requiring or not requiring on site sanitary disposal systems.

(iii.) Minor dredging, filling or alteration of a wetland or beach required for one of the above approved structures or uses.

(iv.) Repair or replacement of on site sanitary disposal or sewage treatment facilities, including any structures, devices and appurtenances to be used in connection therewith, provided however, that such repair or replacement constitutes an improvement to the existing disposal or treatment facilities and has been approved by the Massachusetts Department of Environmental Protection or the Oak Bluffs Board of Health, as appropriate.

(b) Within the Inland Zone, the Board of Appeals may grant a Special

Permit for the expansion, extension or alteration of any health care related uses authorized by Section XVIII 1A (5), provided that the Board of Appeals determines that such expansion, extension or alteration can be accomplished in a manner consistent with the purposes of the Coastal District set forth in Section XVIII 1A (1) and the standards contained in Section XVIII 2.

(7.) Other Regulations and Restrictions

(a.) Unless a Special Permit is granted allowing a greater height, the height of structures, as measured vertically from mean natural ground level to the highest point of the roof is restricted to:

(i.) twenty four (24) feet for a pitched roof

(ii.) thirteen (13) feet for a flat or shed roof.

(b.) Any ground water well shall require a permit from the Board of Health before installation, and shall be located at least two hundred (200) feet from any salt water body.

(c.) Any sanitary disposal facility shall be located a minimum of two hundred (200) feet from any salt water body.

(d.) There shall be a minimum separation of three hundred (300) feet between sanitary disposal facilities. However, in cases where lots have at least sixty thousand (60,000) square feet of area and were created after December 21, 1976, the Board of Health may modify the three hundred (300) foot separation required between sanitary disposal facilities if the Board finds such modification will not jeopardize water quality.

(e.) No portion of a sanitary disposal facility shall be located less than five (5) feet from any domestic water supply well.

(f.) No sanitary disposal facility shall be located less than six hundred (600) feet from a public water supply well nor less than two hundred (200) feet from any domestic water supply well.

(g.) Where compliance with these regulations is not possible, due to the dimensions of a lot existing in separate ownership from adjoining lots before December 22, 1976, the requirements (b through g) may be modified by the Board of Health.

B. Island Road Districts

(1.) Purpose

To allow for safe access and travel along the roads; and to protect the visual character, diversity of landscape and historic features of the journey along the roads. And to protect historic places and retain special ways open primarily for uses such as walking and horseback riding.

(2.) Major Roads

Consisting of the area lying within 200 feet of the right of way of the following roads:

(a.) Barnes Road south of the intersection of Barnes and County Roads.

(b.) The Edgartown – Vineyard Haven Road.

(c.) The Beach Road from Canonicus Road south to the Town Boundary.

(3.) Special Ways

Special Ways have not yet been designed in Oak Bluffs.

(4.) Uses Permitted

Any residential, recreational, agricultural or open space use as permitted in the respective Zoning Districts, subject to the regulations and restrictions set forth below.

(5.) Regulations and Restrictions

(a.) No stone wall shall be moved, removed or otherwise altered, except for repair, except by Special Permit from the Board of Appeals.

(b.) Any additional vehicular access to the public road must be at least 1,000 feet, measured on the same side of the road from any other vehicular access, except that if this requirement would prevent at least one (1) access to a public road from each lot held in separate ownership from the lots contiguous thereto as of December 22, 1976, each such lot shall be located as far as practicable from all other ways located on either side of the road, No land shall hereafter be divided, or sold, if such lot or lots would not be entitled to a way to provide vehicular access to a public way as provided herein. Board of Appeals may grant a Special Permit to allow access(es) at a closer interval than provided herein.

(c.) Structures erected within the District shall not, except by Special Permit, exceed the following heights:

(i.) in a wooded area, 24 feet maximum for a pitched roof

(ii.) 13 feet for a flat roof.

(d.) Fencing: Any fence, wall, planting, shrubbery or foliage more than thirty-six inches in height, which could materially obstruct the view between the road and the nearest public waterway shall require a Special Permit from the Zoning Board of Appeals in accordance with Island Road District DCPC Regulations, Section XVIII 1-B-6.

(6) Special Permit(s)

Special Permits required within these regulations for the Island Road District shall be the responsibility of the Board of Appeals.

C. Special Places District

(1.) Purpose

To physically protect the place or resource; to protect visual or other access; to buffer these places with a greenbelt which is natural or landscaped; to protect the quality of the ponds and wildlife habitats; to keep development in the immediate vicinity that is compatible and does not cause, or is not adversely affected by erosion.

(2.) Designated Special Places

Duarte Pond: Consisting of the land and waters lying within 100 feet of the extreme high-water mark

(3.) Uses Permitted

Any uses permitted within the respective Zoning Districts which do not require the construction, erection, installation or placement of any structure, sanitary disposal facility, road or way or fence; such as uses for outdoor recreation, conservation purposes and agricultural purposes.

(4.) Uses Requiring Special Permit from the Board of Appeals

Any use permitted under the respective Zoning Districts, may be allowed by Special Permit provided that there is no other location upon the lot on which the structure or uses may be located.

(5.) Regulations and Restrictions

No on site sanitary disposal facility may be installed, placed or located in a Special Place District for an inland pond.

D. Copeland Plan District

Regulations within the Copeland Plan District shall apply to all privately owned property.

(1.) Definitions exclusive to this Section.

(a.) Building

A combination of materials forming shelter for persons, animals or property.

(b.) Exterior Architectural Feature

Such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water.

(c.) Structure

A combination of materials other than a building, including any fence, wall, light, sign, terrace, walk or driveway.

(2.) Boundaries

(a.) (Section I) Beginning at the intersection of the centerline of Lake Avenue and the B-1 zoning district boundary as of August 8, 1991 southerly along said zoning district boundary to the intersection of the centerline of Samoset Avenue and said zoning district boundary and hence easterly along the centerline of Samoset Avenue to a point where the extended centerline of said avenue meets the mean low waterline and hence northerly along mean low waterline to a point where the mean low waterline meets the extended centerline of Lake Avenue and hence westerly along the centerline of Lake Avenue to the point of origin.

(b.) (Section II) Beginning at the juncture of the centerline of Sea View Avenue and Samoset Avenue and running westerly then northwesterly then southwesterly along the centerline of Samoset Avenue to the juncture of the centerline of Circuit Avenue and Samoset Avenue and hence southwesterly along the centerline of Circuit Avenue to the juncture of the centerline of Circuit Avenue and a line drawn through the northern boundary of Lot135, Map 11 and hence easterly along the rear lot lines of Lots 135, 136,137, 122, 123, 124, 110, 110.1, 111, 112, 113, 114, 98, 97,

map 11 and Lot 136, Map 10 to the intersection of Naumkeag Avenue and Tuckernuck Avenue and hence northerly along the centerline of Naumkeag Avenue to a point some 70 plus or minus feet north of said intersection and hence easterly to the centerline of Sea View Avenue at a point some 70 plus or minus feet north of the centerline of Tuckernuck Avenue and hence northerly along the centerline Sea View Avenue to the point beginning, exclusive of any properties currently zoned for business use.

(c.) (Section III) Beginning at the juncture of the centerline of East Circuit Avenue and Naumkeag Avenue and running southeasterly along the centerline of Naumkeag Avenue for 113 plus or minus feet then easterly to the southwestern corner of Lot 147, Map 10 and hence east northeasterly along the rear lot line of Lots 147, 148, 149, 150, Map 10 to the centerline of Sea View Avenue and hence northerly along said centerline to a point 70 plus or minus feet north of the centerline of Tuckernuck Avenue and hence westerly to a point some 70 plus or minus feet north of the intersection of Naumkeag Avenue and Tuckernuck Avenue and hence southerly along the centerline of Naumkeag Avenue to said intersection and hence westerly along the rear lot line of Lot 136, Map 10, Lots 97, 98, 114, 113, 112, 111, 110.1, 110, 124, 123, 122, 137, 136, 135, Map 11 to intersect the centerline of Circuit Avenue and hence southerly along said centerline to a point where the extension of the rear lot line of Lot 27, Map 17 meets said centerline and hence east northeasterly along the rear lot lines of Lot 27, Map 17, Lots 133, 132, 131, 126, 127, 128, 105, 106, 107, 108, 99, Map 11, Lots 139, 138, 137, Map 10 to intersect the westerly lot line of Lot 142, Map 10 and hence southerly along said lot line 75 plus or minus feet and hence easterly along the southerly lot line of Lot 142, Map 10 to intersect the centerline of Naumkeag Avenue and hence southerly along said centerline to the point of beginning. Included also is the prominent feature exposed at low tide and easterly of the beach to the east of Sea View Avenue known as Lover's Rock.

(d.) (Section IV) Beginning at the juncture of the centerline of South Circuit Avenue and Circuit Avenue and running northeasterly along the centerline of Circuit Avenue to a point where the extension of the rear lot line of Lot 27, Map 17 meets said centerline and hence northeasterly along the rear lot lines of Lot 27, Map 17, Lots 133, 132, 131, 126, 127, 128, 105, 106, 107, 108, 99, Map 11 Lots 139, 138, 137, Map 10 to intersect the westerly lot line of Lot 142, Map 10 and hence southerly along said lot line 75 plus or minus feet and hence easterly along the southerly lot line of Lot 142, Map 10 to intersect the centerline of Naumkeag Avenue and hence southerly along said centerline to the juncture of the centerline of East Circuit Avenue and Naumkeag Avenue and running southeasterly along the centerline of Naumkeag Avenue for 113 plus or minus feet then easterly to

the southwestern corner of Lot 147, Map 10 and hence east northeasterly along the rear lot lines of Lots 147, 148, 149, 150, Map 10 to the centerline of Sea View Avenue and hence southerly along the centerline of Sea View Ave. to the juncture of the centerline of Sea View Avenue and South Circuit Avenue and hence westerly along South Circuit Avenue to the point of beginning.

(e) (Section V) to consist of the area within the following boundary beginning at the intersection of Dukes County Avenue and New York Avenue northwesterly along the centerline of New York Avenue to its intersection with East Chop Drive and thence northerly along the centerline of East Chop Drive to its intersection with Plymouth Avenue and thence along with centerline of the southerly loop of said Plymouth Avenue to its intersection with Laurel Avenue and thence southwestwesterly along the centerline of Laurel Avenue to its intersection with Moss Avenue and thence southeasterly and easterly along the centerline of said Moss Avenue to the western boundary of Parcel 67 on Assessors' Map 8 and thence southerly along the western boundaries of Parcels 67 and 66 on Map 8 to New York Avenue and thence westerly along the centerline of said New York Avenue to its intersection with the eastern end of Chestnut Avenue and thence southwestwesterly along the centerline of Chestnut Avenue to its intersection with Pacific Avenue and thence southwestwesterly along the centerline of Pacific Avenue to its intersection with Simpson Avenue and thence southeasterly along the centerline of Simpson Avenue to its intersection with Brunswick Avenue and thence southwestwesterly along the centerline of said Brunswick Avenue to its conclusion and thence southwestwesterly along the centerline of Truman Avenue to its intersection with Graham Avenue and then southeasterly along the centerline of Graham Avenue to its intersection with Rowland Avenue and thence northeasterly along the centerline of Rowland Avenue to its intersection with Huntington Avenue and thence easterly along the centerline of Huntington Avenue to its intersection with the western boundary of Parcel 337 on Assessors' Map 11 and thence southerly and easterly along the boundary of said Parcel 337 to Dukes County Avenue and thence northerly along the centerline of said Dukes County Avenue to the point of origin; exclusive of properties of the Town of Oak Bluffs identified as Parcels 76, 123, 134, 140, 141.1 and 259 on Assessor's Map 8.

(Added ATM 4/13/04, Art. 14)

(f) (Section VI) Beginning at the intersection of the centerlines of Oak Bluffs Avenue and Sea View Avenue Extension, thence northwesterly along the centerline of Sea View Avenue Extension to its intersection with Circuit Avenue Extension and thence southwestwesterly, southerly and southeasterly along the centerline of Circuit Avenue Extension to its

intersection with Oak Bluffs Avenue and thence northeasterly along the centerline of Oak Bluffs Avenue to the point of origin.

(3.) Uses: Any use permitted in Section III 1 and 2 of these By-Laws is also permitted in the Copeland Plan District.

(4.) Appropriateness

(a.) General

Any change to the exterior of an existing structure, addition to an existing structure or new construction shall be limited to the Victorian Style architecture prevalent within the district at the turn of the century (1900). No change to an exterior architectural feature shall radically alter the exterior appearance of the building or structure in such a way as to damage the visual integrity of the surrounding viewscape. The asymmetrical skyline of the district is to be preserved and enhanced. The physical character of the landscape shall enhance rather than detract from the prevalent Victorian architecture and shall enhance the inviting and open “village green” of the park. Variety is to be maintained as a key element in the fabric of the overall park presentation. Views from abutting properties shall be preserved.

(b.) Height

The maximum height of building and structure elements shall be 50 feet. The roofline shall be asymmetrical in keeping with the Victorian architecture prevalent in Oak Bluffs at the turn of the century (1900) and shall allow sufficient passage of air and light.

(c.) Demolition

This sub-section shall apply only to elective demolition, not to demolition ordered by appropriate authority for health or safety reasons.

(i.) Demolition shall be allowed only when the existing building or structure is determined to have no relationship to the district or when its retention would result in significant economic hardship and when all the requirements below have been satisfied.

(ii.) If an applicant’s request for permission to demolish a building or structure is based upon structural inability or advanced deterioration, a technical report prepared by an architect or engineer registered in Massachusetts shall be submitted, detailing the nature and extent of the specific problems, and providing reasonably accurate cost estimates for their correction.

(iii.) Applications for permission to demolish existing structures shall be accompanied by complete plans for the new development proposed on the site. There shall be submitted a timetable and a budget for both the demolition and the reconstruction as well as satisfactory evidence that adequate financing is available. The Town may require the posting of a performance bond or the establishment of an escrow account to guarantee the completion of

any such project.

(d.) Window and Door Coverings

No building or structure in the Copeland Plan District shall use unfinished or unpainted plywood or other material to cover window or door areas except in case of emergency, and in an emergency, the covering shall be removed within 14 days. Permanent off-season window or door coverings shall not extend beyond the existing window or door areas.

(5.) No building or structure shall be constructed seaward of Sea View Avenue which would be of such a height as to break the view of Ocean Park from Nantucket Sound and Vice Versa. Lover's Rock shall be protected.

(6.) Administration

(a.) This section shall be administered by the Building Official in accordance with Section VIII.

(b.) Proposed new construction, additions to existing structures or changes to the exterior architectural features shall be reviewed by the Copeland Plan District Review Board for appropriateness. Said Board shall determine that a proposed change is appropriate before any other permits may commence. Said Board may alternatively determine that a proposed change is appropriate before any other Town permits may be issued, or before work not requiring other permits may commence. Said Board may alternatively determine that a proposed change is inapplicable to the By-Law or that adherence to the By-Law would cause significant economic hardship. Failure of such Board to make written response to the applicant and the Building Official within thirty (30) days to a request for review shall constitute approval. The Building Official may alternatively determine that a proposed change is inapplicable to the By-Law or that adherence to the By-Law would cause significant economic hardship.

(c.) The applicant shall provide sketches, diagrams, narrative description and/or plans sufficient for review under Section XVIII D

(d.) The Copeland Plan District Review Board shall consist of membership as follows: One member of the Park Commission or their designee, one member of the Planning Board or their designee, the Building Official, **one member of the Cottage City Historic District Commission***, one member of the Board of Selectmen or their designee and two (2) owners of property within the Section of the District being reviewed to be appointed by the Board of Selectmen. Vote of the Board shall be by majority vote. Five (5) members shall constitute a quorum. (*Amended STM 1/18/05 Art.

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E. Oak Bluffs Harbor District

(1.) Purpose

To maintain an effective visual and physical connection between Oak Bluffs Harbor and surrounding lands; to achieve architectural consistency; to protect Oak