Coastal District of Critical Planning Concern
Conformance of Proposed Amended Oak Bluffs Regulations

Staff Notes for Public Hearing and Vote May 16, 2019
Jo-Ann Taylor 5/7/19

Summary

The Coastal District is one of the original 3 Island-wide DCPC’s designated by the early Commission in 1975, along with the Island Road District and the Special Places District.

There are different regulations for the Shore Zone and the Inland Zone. The Shore Zone covers from MLW to 100 feet inland of a beach, marsh or bluff. Permitted uses include recreation, conservation and agriculture. Specially permitted uses include minor additions to existing residential structures and certain minor non-residential structures.

The procedure to amend DCPC regulations includes a 2/3 vote by Town Meeting, AND a public hearing and vote by MVC on CONFORMANCE of the amended regulations with the Goals and Guidelines in the Designation.

The Oak Bluffs Coastal District regulations were originally adopted with MVC approval in 1976, following the District’s Goals and Guidelines closely. In 1983, the Town amended the regulations by least 2/3 vote at Town Meeting, but did not seek conformance from MVC. The Town is now seeking CONFORMANCE.

1. PROPOSED AMENDMENT TO REGULATIONS FOR OAK BLUFFS COASTAL DISTRICT SHORE ZONE:

The Oak Bluffs Planning Board has proposed the following amendment to the Coastal District regulation:

Proposal to Amend Section XVIII (new Section 9) A. (4) Establishment of Zones within the Coastal District, as follows:

Shore Zone: consisting of the land from mean low water to 100 feet inland of the inland edge of any beach or marsh grasses or stream or wetland flowing into a coastal great pond and land 100 feet inland of the crest of any bluff exceeding a height of 15 feet or any within 100 feet of any stream or wetland draining into a coastal great pond

To read:

Shore Zone: Consisting of the land from mean low water to 100 feet inland of the inland 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.
2. PROCEDURAL NOTES:

Purpose of hearing: To hear testimony and receive evidence as to whether the Commission should determine that proposed amendments to the regulations governing the Coastal District in the Town of Oak Bluffs conform to the guidelines for the development specified in the Commission's designation of the Coastal District.

Timeline and Context: The amendments are not effective until after the MVC has held a public hearing and made an affirmative determination regarding conformance, and the Town Meeting has made a 2/3 vote in favor. The Town Meeting voted the amendment in 1983 by at least 2/3 vote, but without seeking MVC CONFORMANCE.

3. COASTAL DISTRICT GOALS AND GUIDELINES EXCERPT REGARDING ESTABLISHMENT OF ZONES, FOR CONFORMANCE REVIEW:

SECTION II: ESTABLISHMENT OF ZONES IN THE COASTAL DISTRICT

The Coastal District shall consist of two zones, as follows:

1. The Shore Zone, consisting of 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.

2. The Inland Zone, consisting of all land within the Coastal District, except the Shore Zone.

Section 5.00 states “Towns shall, in the manner required by the Act, adopt regulations which as a minimum comply with these Guidelines for the Development of the Coastal District”.

(full text of Goals and Guidelines attached)

4. ANALYSIS:

The proposed amendment makes for a more conservative regulation than the original. Because Section 5 requires that the regulations at a minimum comply with the Guidelines, the amendment appears to conform.
References:

Decision of the Martha’s Vineyard Commission Designating the Coastal District as a District of Critical Planning Concern, 1975, amended 1976

Chapter 831 of the Acts of 1977, as amended

Oak Bluffs Coastal District regulations, full text (attached for convenience)

Request from Oak Bluffs Planning Board, April 3, 2019

Attachments:

- Goals and Guidelines for the Coastal District, for CONFORMANCE review

- Illustrations
  
  o Map illustrating original Coastal District in Oak Bluffs with property boundaries, Shore Zone and Inland Zone
  
  o Map illustrating 1983 (proposed) Coastal District in Oak Bluffs, with property boundaries, Shore Zone and Inland Zone
  
  o Map illustrating comparison of the 1976 and 1983 (proposed) Shore Zone

- Full text of Oak Bluffs Coastal District regulations (for reference)

Correspondence:

No correspondence has been received as of 5/7/16.
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 additions or alterations shall not result in additional sewage flow or sewage capacity if said building or structure is served by onsite sewage 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.
   (v) A structure partially located in the shore zone shall be considered as entirely in the shore zone.

(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.
Section 5.00 Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Coastal District. In adopting the Guidelines, the Commission has evaluated each of the considerations enumerated by Section 9 of the Act and, in addition, has considered other relevant matters.

Towns shall, in the manner required by the Act, adopt Regulations which as a minimum comply with these Guidelines for the Development of the Coastal District. Each Town may adopt such regulations under zoning, subdivision, health general by-law or any combination of such authorities it deems best suited for the purpose. The Commission draws the towns' attention to Section 11 of the Act which in part provides, "In adopting such regulations, each municipality shall have all of the powers it otherwise had under the General Laws." The Commission also encourages municipalities to adopt compatible regulations within the Coastal District.

Goals

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.

SECTION I: ESTABLISHMENT OF GUIDELINES

1. As used herein the "development", "permit", "regulations" shall have the same meaning as in the Act.

2. The town shall adopt regulations of the types described in the Act, as appropriate to conforming to these Guidelines to control Development within the Coastal District.

3. In appropriate cases, after notice and a public hearing, the Martha's Vineyard Commission may permit a town to adopt regulations which are less restrictive than these Guidelines if the Commission finds that such regulations will carry out the purpose of the Act and intent of these Guidelines for the District.
4. These Guidelines may be amended by the Commission after notice to the towns and notice and a public hearing in the manner required by the Act.

5. Unless otherwise stated in these Guidelines the regulations adopted pursuant to these Guidelines in no way alter the process for referral and review of Developments of Regional Impact according to the Act and the Criteria and Standards of the Commission.

SECTION II: ESTABLISHMENT OF ZONES IN THE COASTAL DISTRICT

The Coastal District shall consist of two zones, as follows:

1. The Shore Zone, consisting of 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.

2. The Inland Zone, consisting of all land within the Coastal District, except the Shore Zone.

SECTION III: USES WITHIN THE ZONES

Regulations shall specify uses within the District which at least conform to the following:

1. The Shore Zone:

   a. Permitted Uses

   Uses may be permitted which are consistent with the fragile nature of the area, such as outdoor recreation (including hunting, trapping and fishing), conservation purposes, agricultural purposes (including haying, construction of fences, planting and cultivation or transplanting of beach grass), etc.

   b. Uses Allowed by Special Permit

   Certain minor non-residential structures and uses, requiring no on-site sanitary disposal facilities, including minor structures associated with shellfishing, fishing, crop storage, or other agriculture; docks, boathouses, and landings; and municipal structures associated with beach stabilization or drainage projects, etc., may be allowed by special permit. Fish Processing facilities, alterations to buildings, and an addition to a single-family residence existing before December 22, 1975, provided however, that any such addition or alteration will not require additional plumbing fixtures and/or on-site sanitary disposal facilities, may be allowed by special permit.
c. Prohibited Uses

All other uses including dredging, filling, or alternation of any wetland or beach, except for minimal dredging, filling or alterations necessary for a use or structure permitted by special permit.

2. The Inland Zone

a. Permitted Uses

1. A single family residence shall be allowed provided that:

a. In order to control the quantity of sanitary disposal system leachate released into the ground in a District there shall be not less than a three-hundred (300) foot separation between on-site sanitary disposal facilities measured from the center of the leaching area or pit. Regulations may permit, in particular cases, lesser separation by variance which may be granted after public hearing: provided that there shall be a minimum separation of two-hundred (200) feet and the applicant must prove that there will be no pollution to ground or surface water, domestic water supply or fisheries. In no case shall the lowest part of the disposal or leaching facility be less than five (5) feet above minimum ground water elevation.

b. There is not less than two-hundred (200) foot separation between any on-site sanitary disposal facilities and domestic water supply wells.

c. Wells and on-site sanitary disposal facilities shall be not less than two-hundred (200) feet from any portion of a salt water body.

d. All domestic water supply wells will require a permit from the town board of health before installation to assure compliance with all health regulations.

e. All on-site sanitary disposal facilities shall be located not less than six-hundred (600) feet from wells used for public water supply.
f. The height of structures, as measured vertically from mean natural ground level to the highest point of the roof, is restricted to:

i) eighteen (18) feet for a pitched roof and thirteen (13) feet for a flat roof or shed roof (which is a roof of pitch 1 in 4 or less) in open terrain (consisting of moors, plains, or bluffs).

ii) Twenty four (24) feet for a pitched roof and thirteen (13) feet for a flat or shed roof (which is a roof of pitch 1 in 4 or less) in wooded terrain.

iii) Towns may vary these height restrictions, consistent with the landscape, and with the approval of the Commission.

2. Uses permitted in the Shore Zone.

3. Non-habitable, minor accessory structures normally used for personal, family and household purposes.

a. Uses Allowed by Special Permit

1. All uses allowed by special permit in the Shore Zone.

2. Other uses consistent with goals of the District and these guidelines, which uses shall require a special permit from a special permit granting authority defined by the regulations.

b. Prohibited Uses

All other uses not permitted by right or special permit.
SECTION IV: GUIDELINES FOR STREAMS AND WETLANDS DRAINING INTO THE COASTAL GREAT PONDS

1. Boundaries: The land and water lying one-hundred (100) feet from the thread of streams or from the edge of wetlands contiguous to ponds or streams draining into coastal ponds.

2. Uses:
   a. Permitted Uses
      All uses allowed in the Shore Zone.
   b. Uses Allowed by Special Permit.
      1. Uses allowed by special permit within the Shore Zone.
      2. Alterations of a bank or stream (such as for the construction of dams, bridges, waterwheels) may be allowed by special permit. Priority will be given to such alterations for farming and wildlife uses.
   c. Prohibited Uses
      All uses prohibited within the Shore Zone.

SECTION V. ADMINISTRATION

1. Procedures for applying for and issuing special permits.
   a. Each town shall adopt regulations which assign special Permit granting authority to one or more municipal boards, or as permitted by law (see MGLA, Chapter 40A) and which define information including maps, studies and reports to be submitted with any application for a special permit.
   b. Any special permit granting authority shall consider the goals of the District and shall grant a permit only if it finds that the regulations
and the proposed development is consistent with the goals of the District and the regulations and assures protection against adverse environmental effects including:

1. pollution of surface or groundwater or of waterbodies.

2. salt-water intrusion of public or private domestic water supply wells.

3. inadequate water supply to meet the anticipated demand of the proposed activity or use or reduction of water supply available to other properties.

4. noise and air pollution.

5. destruction of wildlife habitats and damage to wetlands or littoral ecology.

6. damage to marine fisheries and shellfish.

7. unnecessary decrease in agricultural use or potential productivity of land.

8. unnecessary interruption of the visual amenities of the site.

9. construction which is not in harmony with landscape type.

10. erosion resulting from or caused by development.

c. In granting a special permit, the special permit granting authority shall impose such conditions and safeguards as it deems appropriate.

d. The special permit granting authority shall adopt rules and regulations regarding the conduct of its business and procedures for referral of applications to the Plan Review Committee.
2. Plan Review

a. By regulation each town shall establish a Plan Review Committee, comprised of members from at least three (3) of the following boards:
   - board of selectmen
   - board of health
   - planning board
   - conservation commission
   - zoning board of appeals
   - historic district commission, or other special purpose town board (e.g., sewer committee, water commission, etc.)

   and may also include membership from the following:
   - member(s) of the Martha's Vineyard Commission
   - the building inspector
   - resident(s) of the town, to be appointed by the Plan Review Committee

b. The regulations adopted shall provide that:

   1. The Plan Review Committee shall review all special permit applications and the information submitted by the applicant.

   2. The Plan Review Committee shall hold meetings with applicants and other interested parties, and shall report its findings and recommendations to the special permit granting authority.

   3. The regulations shall establish time limits in which the Plan Review Committee shall meet and act. The time within which the Plan Review Committee shall meet and render its report may vary as to activity or use being reviewed.

   4. The Plan Review Committee shall advise the special permit granting authority on those matters the special permit granting authority is required to act upon. Such regulations shall also provide that failure of the Plan Review Committee to have adopted a report within specific times shall be construed as a recommendation of approval. A report by the Plan Review Committee shall be filed in the office of the Town Clerk, within the time specified.
5. The report of the Plan Review Committee shall, among other things, advise the special permit granting authority as to those issues enumerated in Section V, 1.,b. (1) through (9), above.

6. Membership terms shall be staggered and regulations shall provide for vacancies to be filled.

SECTION VI: GENERAL GUIDELINES FOR THE COASTAL DISTRICT

1. Developments of Regional Impact referred to the Commission for review shall be exempt from review by the special permit granting authority and the Plan Review Committee. Any development approved by the Commission shall conform to Town regulations if applicable.

2. The town may provide for transfer of development rights from lands within the Coastal District to an area lying within two-thousand (2000) feet outside of the Coastal District Inland Boundary.

3. Construction cf hard-surfaced roads, with impervious surface, or any parking lot 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.

4. There shall be subdivision control within the District in Gay Head.

5. All utility installations must be underground, unless excepted by special permit.

6. No road or way for vehicular use may be constructed exceeding a width of ten (10) feet, except by special permit, which may provide for greater width.

7. Regulations shall be adopted which shall assure Development occurring or proposed within five-hundred (500) feet of any area of Major Public Investment such as beach, wildlife preserve, etc., is compatible with the area or enjoyment of such area.
8. Land upon which there are suitable conservation restrictions in effect and perpetual which meet with the standards set up by the Commission to insure the lasting protection of the land and water necessary to carry out the purposes of the Act and the Guidelines shall, if found to meet or exceed these standards, be exempt from regulations pursuant to the Guidelines once the Conservation restriction is approved by the Commission.

BY VOTE OF THE MARTHA’S VINEYARD COMMISSION

DECEMBER 22, 1975

EDWIN G. TYRA, CHAIRMAN
The proposed version is based on data utilized in the 2011 Coastal DCPC mapping exercises. The MVC recommends revising the digital delineation representation using more recent data. If undertaken, the overall extent of the Coastal DCPC may change as well as the Shore & Inland Zones.

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*may not be traversable by automobile
DRAFT

Oak Bluffs, MA - Shore Zone Comparison

Revised Definition

Shore Zone Comparison Roads

- Revised
- Original
- Major
- Secondary
- Neighborhood
- Tertiary*

Note: The revision is based on data utilized in the 2011 Coastal DCPC mapping exercise. The MVC recommends redoing the digital delineation using more recent data. If undertaken, the overall extent of the Coastal DCPC may change as well as the Shore & Inland Zones.

May not be traversable by automobile

DISCLAIMER:
Data provided are for planning purposes only. The data are not adequate for boundary determination or regulatory interpretation. The MVC cannot be responsible for how these data are used or interpreted by the end user.

Compiled By: Martha’s Vineyard Commission, M Sparzo, 6/11/09, CL Seidel 5/7/19


Projection: Stateplane, MA Mainland, NAD83, m

File: cls_basics; oak_coastalShoreZn_Compare.mxd

Original in color

*may not be traversable by automobile