

Public Hearing Notice **Oak Bluffs Planning Board**

The Oak Bluffs Planning Board will hold a Public Hearing in the meeting room on the lower level of the Oak Bluffs Town Hall, 56 School Street Oak Bluffs MA on Thursday April 1, 2010 at 7:00 pm for the purpose of eliciting comments on the following zoning articles. Written comments may also be sent the Oak Bluffs Planning Board, PO Box 1327, Oak Bluffs, MA 02557.

ARTICLE: To see if the Town will vote to amend the Oak Bluffs Zoning Bylaw by deleting Section 6.2 Windmills in its entirety and adding the following or take any other action relative thereto.

Section 6.1 - WIND ENERGY GENERATING FACILITY REGULATIONS

6.1.1 Purpose

This section is designed to accomplish the following objectives: to reduce the overall consumption of fossil fuels through energy conservation; to preserve and protect the cultural and natural environment; and to minimize the potential adverse effect on the character of the neighborhood with the construction and use of a wind energy generating machine.

6.1.2 Applicability

Except in the ocean waters within the corporate bounds of the Town of Oak Bluffs, use of a wind generating energy facility of any kind, as defined in this by-law, must be accessory to the primary use on the lot. Communal and Municipal wind energy generating facilities are exempt from this provision.

6.1.3 Definitions. The following special definitions shall apply in this section 6.1

BLADE – Extensions from the hub, which are designed to catch the wind and turn the rotor to generate electricity.

BLADE-TIP HEIGHT – The height as measured from the grade of the land below to the highest extension of the blade.

CUT-OUT WIND SPEED – The high wind speed at which the wind energy generating facility must shut down and/or turn perpendicular to the wind to protect itself from being over powered, typically 56 miles per hour.

GROUND BLADE CLEARANCE – The height as measured from the grade of the land below the wind energy generating facility to the lowest extension of the blade.

HUB – The center of the rotor to which the blades are attached.

HUB HEIGHT – The height as measured from the grade of the land below the wind energy generating facility to the center of the rotor or hub.

NACELLE – The frame and housing at the top of the tower. It protects the gearbox and generator from weather and helps control the mechanical noise level.

RATED NAMEPLATE CAPACITY – The rated output of electric power from the producing equipment.

ROTOR – A wind energy generating facility's blades and the hub to which they are attached.

ROTOR DIAMETER – The diameter of the rotor of a wind energy generating facility rotor measured as twice the length of the longest blade plus the hub width.

TREE LINE BLADE CLEARANCE – The height as measured from the top of the tallest object within 300 feet to the South and West of the base of the tower to the lowest extension of the blade.

WIND ENERGY GENERATING FACILITY – All equipment, machinery and structures, utilized in connection with wind-generated energy production, generation and sale, including related systems, whether underground, on the surface, or overhead and other equipment including but not limited to, rotor, electrical generator and tower, anemometers, transformers, substation, power lines, control and maintenance facilities, site access and service roads.

WIND MONITORING OR METEOROLOGICAL (“test” or “met”) TOWER – A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

6.1.4 – LAND BASED WIND ENERGY FACILITIES

CATEGORIES – A wind energy generating facility shall be divided into the following categories for permitting requirements:

A. Private:

1. Single Owner:

A facility designed to provide on-site electrical needs and not to exceed 150-feet in overall height.

2. Communal:

A facility designed to provide local residential electrical needs to its owners and not to exceed 150- feet in overall height. Residents may form associations or other legally binding forms of cooperative ownership for the purpose of accommodating wind energy generating facilities, where deeded easements and restrictions can be put on vacant land to create a common area that can be used for a wind energy generating facility. The association is to bear all the financial and maintenance responsibilities of a single owner under this regulation.

B. Municipal:

A publicly owned wind energy generating facility, for the benefit of the Town of Oak Bluffs.

6.1.5 – GENERAL REQUIREMENTS FOR THE INSTALLATION OF ANY WIND FACILITY

6.1.5.1 Compliance with Laws, Ordinances and Regulations:

The construction and operation of all such proposed wind energy generating facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements. The safety of the design and the construction of any wind energy generating facility, including towers and associated equipment and the compatibility of the tower structure with the rotors and other components, shall be certified by the manufacturer and by an engineer licensed by the Commonwealth of Massachusetts if the manufacturer is out of state or country. The owner/applicant of any wind energy generating facility shall provide proof of liability insurance for the installation, use and maintenance of the wind energy generating facility.

6.1.5.2 Technical Requirements:

A wind energy generating facility must meet the current minimum technical requirements for renewable energy installations funded by the Massachusetts Technology Collaborative to the extent they apply.

6.1.5.3 Safety Wires:

Safety wires shall be installed on the turnbuckles on guy wires of “Met” towers and guyed wind energy generating facility towers.

6.1.5.4 Wind Speed Controls:

All wind energy generating facilities should be equipped with manual and automatic cut-out wind speed controls. The rotor and cut-out wind speed control shall be certified by the manufacturer.

6.1.5.5 Towers:

All towers shall be monopole, guyed poles or guyed tilt ups and if they require external climbing apparatus, they shall have either tower climbing apparatus located not closer than twelve (12) feet to the ground or be un-climbable by design for the first twelve (12) feet. The tower, blades, rotor, hub and nacelle shall be painted a neutral, non reflective color designed to blend with sky and clouds.

6.1.5.6 Connections:

All utility connections from the wind energy generating facility to the existing grid shall be underground.

6.1.5.7 Monitoring:

All equipment necessary for monitoring and operation of the wind energy generating facility shall be contained in the tower. If this is unfeasible, ancillary equipment may be located outside the tower or behind a year round landscaped or vegetative buffer.

6.1.5.8 Site Clearing:

Clearing of natural vegetation shall be limited to that which is necessary for the construction and maintenance of the wind energy generating facility – including roadways and power interconnects. Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary.

6.1.5.9 Land Clearing:

Land clearing for the purposes of reducing wind turbulence in the vicinity of the turbine is prohibited unless the applicant can prove it is essential to operational requirements, does not adversely affect the natural resources in the area and that adequate erosion controls are proposed.

6.1.5.10 Rooftop Systems:

Wind energy generating facilities sited on top of, or attached to and extending above the ridge line of, an existing structure shall comply with all applicable provisions of the latest 780 CMR version of the Massachusetts Building Code. Certification by an engineer licensed by the

Commonwealth of Massachusetts shall be required of the existing structure the facility will be attached to.

6.1.5.11 Efficiency:

The wind energy generating facility should be able to provide the rated nameplate capacity, as per the manufacturer's specifications.

6.1.5.12 Interference:

A wind energy generating facility shall create no TV or radio interference.

6.1.6 REGULATIONS

6.1.6.1 – Private Wind Facilities

Private facilities may be allowed anywhere in Town subject to the following requirements:

1. It receives a building permit from the Building Department.
2. Freestanding wind energy generating facilities shall be located at least the blade tip height of the facility to the nearest property line, except in the case of a communal wind energy generating facility, the nearest property line of an owner who is not associated with the facility.
3. Freestanding wind energy generating facilities shall be located where they will not create or be subject to turbulence from nearby wind energy generating facilities.
4. For a freestanding wind energy generating facility, the Tree Line Blade clearance shall be at least 30 feet.
5. Rooftop wind energy generating systems shall not extend more than ten feet above the ridge line of the structure to which it is attached.

6.1.6.2 – Municipal Wind Energy Generating Facilities

Municipal wind energy generating facilities may be located at least the blade tip height or 300 feet from the nearest dwelling or commercial structure and nearest property line, except in the case of a communal wind energy generating facility or wind energy generating facility association, the nearest property line of an owner not associated with the facility.

6.1.7 SPECIAL PERMIT. The Zoning Board of Appeals may vary, by special permit, any requirement of Sections 6.3.9 and 6.4.1.2, 3, 4 & 5 only with an approved siting plan from the Building Department and upon its written determination that the adverse effects of the proposed wind energy generating facility will not outweigh its beneficial impacts to the neighborhood.

6.1.8 TERMS OF USE

To ensure that the goals of this by-law are met in the face of evolving technology, wind energy generating facilities will expire at the end of the useful life of the facility or 20 years, whichever is less. At that time, the facility shall be removed by the applicant or, if the existing facility is still operable and efficient, the facility may be renewable by the Building Department for a term of no more than 5 years at a time. A new permit is required to install a replacement system. Submitting a renewal request shall allow for continued operation of the wind energy generating system until the Building Department acts. At the end of that period (including extensions and renewals), the wind energy generating facility shall be removed as required by this by-law.

6.1.8.1 – Decommissioning

Upon a finding by the Building Inspector that the facility has been abandoned, or has been left in disrepair, or has not been maintained in accordance with its approved maintenance plan, the owner of the facility or land on which it is located shall be notified in writing by certified mail that the facility must be brought up to standard.

If required repairs or maintenance are not accomplished within 45 days from receipt of certified mailing, the facility may be deemed condemned and may be removed from the site by the Town within 90 days, at the property owner's expense. At the request of the property owner, the Zoning Administrator, with the concurrence of the Building Inspector, may allow extensions of these time periods.

6.1.8.2 – Removal Requirements

Any wind energy generating facility, which has reached the end of its useful life or has been abandoned must be removed. When the wind energy generating facility is scheduled to be decommissioned, the owner(s) shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal.

Decommissioning shall consist of physical removal of all wind turbines, towers, machinery, equipment, security barriers and accessory structures from the site. Disposal will occur of all solid and hazardous waste in accordance with all local and state waste disposal regulations. The owner may leave existing landscaping or below grade foundations in order to minimize erosion and disruption to vegetation.

6.1.8.3 – Abandonment

A wind energy generating facility shall be considered abandoned if it fails to operate continuously for 12 months. If the owner fails to remove the facility within 90 days of a finding of abandonment by the Building Inspector, the town shall have the authority to enter the property and physically remove the facility, after a Board of Survey is conducted and a determination made that the structure is unsafe, at the expense of the property owner.

6.1.8.4 – Surety

The Building Inspector may require the applicant to post a bond at the time of construction to cover costs for removal in the event that the town must remove the facility. The applicant, if required to include a bond in the permit application, shall submit a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for cost of living adjustment. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town's removal of the facility.

Zoning Board of Appeals/Planning Board article

ARTICLE: To see if the Town will vote to delete the current FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND FLOODWAY DATA and adopt the following FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION AND FLOODWAY DATA or take any other action relative thereto:

SECTION A. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The Floodplain Overlay District (FPOD) includes all special flood hazard areas within the Town of Oak Bluffs

designated as Zone A, AE, AO, V, or VE on the Dukes County Federal Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Dukes County FIRM that are wholly or partially within the Town of Oak Bluffs are panel numbers 25007C0102H, 25007C0103H, 25007C0104H, 25007C0106H, 25007C0108H, 25007C0111H, 25007C0112H, 25007C0116H, dated July 6 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 6, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the conservation commission and the zoning administrator.

SECTION B. BASE FLOOD ELEVATION

Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

Stormsmart Committee Article

ARTICLE: To see if the Town will vote to delete the current Section 8.1 of the Oak Bluffs Zoning By-law in its entirety and substitute in its place the following or take any other action relative thereto:

Section 8.1: THE TOWN OF OAK BLUFFS FLOODPLAIN OVERLAY DISTRICT BY-LAW

8.1.1: Statement of Purpose

The purposes of the Floodplain Overlay District are to:

- a) Limit development in areas subject to flooding, particularly high hazard V zones and AO zones in order to minimize potential loss of life, destruction of property, and environmental damage inevitably resulting from storms, flooding, erosion and relative sea level rise.
- b) Reduce or prevent public health emergencies resulting from surface and ground water contamination from inundation of or damage to sewage disposal systems and storage areas for typical household hazardous substances.
- c) Enable safe access to and from homes and structures for homeowners and emergency response personnel, such as police, fire, and rescue departments.
- d) Minimize monetary loss and public health threats resulting from storm damage to public facilities (water and gas mains; electric, telephone and sewer lines, streets, bridges, etc.).
- e) Prevent loss or diminution of the beneficial functions of storm and flood damage prevention or reduction and pollution prevention provided by wetlands, beaches, dunes, barrier beaches, the floodplain, and coastal banks
- f) Protect public access and ensure that areas of high public value remain open to the public.

8.1.2: Floodplain Overlay District Boundaries

The Floodplain District is herein established as an overlay district. The Floodplain Overlay District (FPOD) includes all special flood hazard areas within the Town of Oak Bluffs designated as Zone A, AE, AO, V, or VE on the Dukes County Federal Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Dukes County FIRM that are wholly or partially within the Town of Oak Bluffs are panel numbers 25007C0102H, 25007C0103H, 25007C0104H, 25007C0106H, 25007C0108H, 25007C0111H, 25007C0112H, 25007C0116H, dated July 6th, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 6th, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the conservation commission and the zoning administrator.

8.1.3: Scope of Authority

a) Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts and is superimposed on existing zoning districts. All uses, dimensional requirements, and other provisions of the bylaw applicable to such underlying districts shall remain in force and effect, except where the restrictions and requirements of the overlay district are more restrictive, the later shall prevail.

b) Reference to Other Applicable Laws and Regulations

In addition, all development in the district, including structural and non-structural activities, whether permitted by right or by special permit under this section must be in compliance with the following;

- a. Wetlands Protection Act, G.L. Ch. 131, s. 40;
- b. Massachusetts State Building Code, 780 CMR;
- c. Coastal Wetlands Restriction Act, G.L. Ch.130, s. 105
- d. Title 5 of the State Sanitary Code, 310 CMR 15.00
- e. Title 5 of the State Sanitary Code, 310 CMR 12.00

8.1.4: Permitted Uses

Notwithstanding any other provision of this bylaw the following uses and activities are permitted by right within the entire FPOD:

1. Public access activities; however the structures in connection with these activities may be regulated as stipulated below.
2. Repair of existing foundations, unless the work replaces the foundation in total or repairs the foundation so as to constitute new construction or a substantial repair of a foundation.
3. Repair of existing structures, provided that the repair does not constitute a substantial improvement or a reconstruction.

8.1.5: Permitted Uses by Special Permit

8.1.5.1: Notwithstanding any *other* provision of this bylaw, and upon issuance of a Special Permit by the Zoning Board of Appeals, and subject to such special conditions and safeguards as are deemed necessary to fulfill the purpose of this bylaw, the following uses and activities can be permitted in the entire FPOD:

1. Substantial repair to a foundation.
2. Restoration and construction of structures listed in the National Register of Historic Places or the official State Inventory of Historic Places.
3. Construction of water dependent structures as determined by MassDEP Chapter 91 (Waterways) Regulations.
4. Beach or dune nourishment and restoration of coastal resource areas as defined in the MA Wetlands Protection Act and Oak Bluffs Wetlands Bylaw
5. The repair or replacement of an existing septic system.
6. Replacement or repair of existing impervious surfaces, including, but not limited to, swimming pools, tennis/basketball courts, pavement, pavers, concrete slabs at grade, curbing, and retaining walls.

8.1.5.2: Notwithstanding any other provision of this bylaw, and upon issuance of a Special Permit by the Zoning Board of Appeals, and subject to such special conditions and safeguards as are deemed necessary to fulfill the purpose of this bylaw, the following uses and activities can be permitted in the A and AE Zone of the FPOD:

1. New construction of residential structures.
2. The construction of an addition or other alterations to an existing structure that results in an increase in floor area or intensity of use, or constitutes a substantial improvement.
3. Repair of a substantially damaged structure or reconstruction of an existing structure.
4. New construction of non-residential structures.
5. The following activities are allowed by Special Permit, provided a registered professional engineer certifies in writing that the activity will not cause an increase in wave runup, a deflection or channelization of flood waters, or an increase in the velocity of flow:
 - a) An increase in impervious surface, which may include, but is not limited to, swimming pools, tennis/basketball courts, pavers, concrete slabs at grade, curbing, and retaining walls.
 - b) The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged spoil.
 - c) The excavation, dredging, removal, or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance.

8.1.5.3: Notwithstanding any other provision of this bylaw, and upon issuance of a Special Permit by the Zoning Board of Appeals, and subject to such special conditions and safeguards as are deemed necessary to fulfill the purpose of this bylaw, the following uses and activities can be permitted in the V and AO Zones of the FPOD:

1. Repair of a substantially damaged structure or reconstruction of an existing structure provided the work shall *not* increase floor area or the intensity of the use, or constitute a substantial improvement.
2. All new construction shall be located landward of the reach of mean high tide.

8.1.6: Prohibited Uses

8.1.6.1: The following uses are prohibited within the entire FPOD:

1. The installation of a basement.

8.1.6.2: The following uses are prohibited within the V, VE and AO Zones of the FPOD:

1. New construction of residential structures.
2. The construction of an addition or other alterations to an existing structure that results in an increase in floor area or intensity of use, or constitutes a substantial improvement.
3. Repair of substantially damaged structure or reconstruction of an existing structure that results in an increase in floor area or intensity of use, or constitutes a substantial improvement.
4. New construction of non-residential structures, with the exception of water dependent structures.
5. Any increase in impervious surface on a residential lot. This may include, but is not limited to, swimming pools, tennis/basketball courts, pavers, concrete slabs at grade, curbing, and retaining walls. For water dependent projects allowed in the V, VE, and AO Zones, impervious surfaces accessory to the use is allowed provided a registered professional engineer certifies in writing that the impervious surface will not cause an increase in wave runup, a deflection or channelization of flood waters, or an increase in the velocity of flow.
6. With the exception of beach nourishment and raised septic systems, which must receive a Special Permit (see above), the following uses are specifically prohibited and may not be allowed by Special Permit:
 - a) The storage or disposal of any soil, loam, peat, sand, gravel, rock, or other mineral substance, refuse, trash, rubbish, debris, or dredged spoil, with the exception of landscaping fill that is permitted, provided a registered professional engineer certifies in writing that the fill will not cause an increase in wave runup, a deflection or channelization of flood waters, or an increase in the velocity of flow;
 - b) Draining, excavation, or dredging, or removal or relocation of loam, peat, sand, gravel, soil, rock, or other mineral substance.
7. The use of fill for structural support of buildings
8. Man made alterations to sand dunes

8.1.7 General Administration.

- A. This bylaw hereby establishes a plan review committee, which shall consist of representatives from the Zoning Board of Appeals, Conservation Commission, Board of Health, Planning Board, and the Cottage City Historic District Commission and Copeland Plan District Review Board when the site is within their jurisdiction. The purpose of this committee is to advise the zoning enforcement officer on building permit decisions for properties in the FPOD.
- B. Before rendering a building permit decision, the building inspector shall receive written comments from the plan review committee, particularly on the following:
 1. Determination of any project's flood zone status, and

2. Determination of whether a proposed construction or alteration of the landform within the FPOD has received all necessary permits from those government agencies from which approval is required by federal, state, or town law.
- C. The building inspector shall:
1. Obtain and maintain records of the elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures; maintain records as to whether or not such structures contain a basement.
 2. Make a determination of substantial improvement or substantial damage (as defined) using the official records of the Tax Assessor.

8.1.8 Special Permit Administration

- A. All special permits in the FPOD will be granted by The Board of Appeals and shall be administered as follows:
1. Before granting a special permit, The Board of Appeals shall file applications forms and plans to receive written comments from the plan review committee.
 2. The special permit granting authority shall impose conditions and requirements as deemed necessary to fulfill the purpose of this bylaw and as set forth in the regulations promulgated in accordance with MGL Chapter 40A section 9.
 3. The special permit granting authority may require such additional information and impose conditions as it finds necessary to protect the health, safety, and welfare of the public or the occupants of the proposed use, or of the floodplain district.
- B. The Board of Appeals may grant a special permit only upon:
1. A determination that the granting of the special permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or conflict with existing local by-laws; and
 2. Determination that the special permit is the minimum necessary to afford relief, considering the flood hazard.

8.1.9 Regulations

The Board of Appeals may adopt, and periodically amend, rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), procedures, and administration of this district by majority vote after conducting a public hearing to receive comments on any proposed revisions.

8.1.10 Fees

The Board of Appeals shall obtain with each submission an Application Fee established by the Board to cover expenses connected with the review of the special permit and a technical review fee sufficient to cover professional review services for the project. The Board is authorized to retain a Registered Professional Engineer or other professional consultant to advise the Board on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

8.1.11 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.

8.1.12: Definitions

Definitions in this bylaw shall be consistent with the Massachusetts State Building Code, 780 CMR, the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) 59.1, and with Massachusetts Department of Environmental Protection (MassDEP) Chapter 91 (Waterways) Regulations.

ADDITION means an extension or increase in floor area or height of a building or structure.

ALTERATION means any Construction or Renovation to an Existing Structure other than Repair or Addition.

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT means that portion of a building that is partly or completely below grade (see “Story above grade plan”) and 780 CMR 502.1 and 1612.2).

COASTAL HIGH HAZARD AREA means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V, V1-30, VE.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means floodplain district.

EXISTING STRUCTURE means a structure erected prior to the date of adoption of the appropriate code, or one for which a legal building permit has been issued.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500 year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

ONE-HUNDRED-YEAR FLOOD - see BASE FLOOD.

PERMIT means an official document or certificate issued by the authority having jurisdiction, which authorizes performance of a specific activity.

REGULATORY FLOODWAY - see FLOODWAY

REPAIR means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

WATER-DEPENDENT USE means a use that requires direct access to or location in tidal or inland waters, and therefore cannot be located away from said waters. It is any use that complies with or is specified in the DEP regulations at 310 CMR 9.12(2)

ZONE A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 and **ZONE AE** (for new and revised maps) means the 100-year floodplain where the base flood elevation has been determined.

ZONE AH and **ZONE AO** means the 100-year floodplain with flood depths of 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONES B, C, AND X are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ZONE V means a special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE V1-30 and **ZONE VE** (for new and revised maps) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

Stormsmart Committee Article

ARTICLE: To see if the Town will vote to delete the Current Section 8.1.3 in its entirety and substitute in its place the following or take any other action relative thereto:

Section 8.1.3 LOCATION

A. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The Floodplain Overlay District (FPOD) includes all special flood hazard areas within the Town of Oak Bluffs designated as Zone A, AE, AO, V, or VE on the Dukes County Federal Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Dukes County FIRM that are wholly or partially within the Town of Oak Bluffs are panel numbers 25007C0102H, 25007C0103H, 25007C0104H, 25007C0106H, 25007C0108H, 25007C0111H, 25007C0112H, 25007C0116H, dated July 6 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Dukes County Flood Insurance Study (FIS) report dated July 6, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the conservation commission and the zoning administrator.

B. BASE FLOOD ELEVATION

Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

Stormsmart Committee Article

John C Bradford, Chairman
Oak Bluffs Planning Board