

**WARRANT FOR SPECIAL TOWN MEETING
COMMONWEALTH OF MASSACHUSETTS**

County of Dukes County, ss

To either of the Constables in the Town of Oak Bluffs, **Greeting:**

In the name of the Commonwealth of Massachusetts, you are hereby directed to warn the inhabitants of the Town of Oak Bluffs who are qualified to vote in Town Affairs and Elections, to assemble at the Oak Bluffs School, Tradewinds Road, Oak Bluffs, on Tuesday, November 14, 2017 at 7:00 pm in the evening, then and there to act upon the following articles:

Article 1. To see if the Town will vote to transfer and appropriate from Free Cash the sum of \$107,182 to be appropriately distributed by the Town Accountant to the accounts affected for the purpose of funding the provisions for the contract period commencing July 1, 2017, as agreed to by the Town of Oak Bluffs and the Massachusetts Coalition of Police Oak Bluffs Patrol Officers Association and Superior Officers Association, the American Federation of State, County and Municipal Employee, Council 93, Local 3992 Unit A and Unit B and to pay for salary adjustment to employees covered by the Personnel By-law and the elected Town Clerk, and to determine how the same shall be raised and by whom expended, or take any other action relative thereto.

Board of Selectmen

Executive Summary: This Article approves and funds the contracted salary adjustment for fiscal year 2018 for Police Officers and Supervisors and union employees in the AFSCME, Local 3992, Units A and B as well as for employees covered by the Town's Personnel Bylaw and the Town Clerk.

Finance and Advisory Board Recommendation: 6-yes, 2-no, 1 abstain.

Article 2. To see if the Town will vote to transfer from Free Cash a sum of money to the Stabilization Fund, or take any other action related thereto.

Board of Selectmen

Executive Summary: This Article transfers funds from Free Cash to the Town's Stabilization Fund. At the time of publication the Town's Free Cash had not been certified by the State, so the Article reads, "a sum of money". The Finance Committee has reviewed the financial position of the Town and will recommend the transfer of \$500,000 from free cash to the stabilization fund through this article, as long as free cash has been certified as of Town Meeting. The Town maintains written financial policies regarding Stabilization Fund balance which the Finance Committee follows for the financial health of the Town. The Stabilization Fund policy calls for a minimum of 5% of the budget to be maintained in the Stabilization Fund at all times, with any amounts over the 5% minimum potentially available for future needs. The Town met its 5% funding goal in April of 2017, and this article provides additional funding beyond the minimum goal.

**Finance and Advisory Board Recommendation: 9-yes, 0-no
2/3 Vote required**

Article 3. To see if the Town will vote to transfer and appropriate from Free Cash the sum of \$77,911.00 to the Police Salary and Wage Account to fund one-time retirement settlements paid during the fiscal year commencing July 1, 2017, or take any other action related thereto.

Board of Selectmen

Executive Summary: This Article funds two retirement settlements for sick time and vacation time due to members of the Police Department. Settlement funds were paid from the Police Salary and Wage Account and this Article seeks to restore those funds for wages of current Police Officers.

Finance and Advisory Board Recommendation: 7-yes, 0-no, 1-abstain

Article 4. To see if the Town will vote to transfer from available funds the sum of \$58,500 (Fifty-eight thousand, five hundred dollars and no cents) to the Harbormaster Expense Account for the purpose of piling replacement, dock repairs and mooring inspection and replacements, or take any other action related thereto.

Board of Selectmen

Executive Summary: This Article provides funding for the replacement of rotted and damaged pilings and associated dockside repairs at the Harbor Marina Facility and also provides funds to support the Town's ongoing maintenance project of inspecting moorings and making repairs and replacements where necessary. The Town maintains the goal of inspecting and repairing one-third of all moorings annually for a three year program to cover all moorings.

Finance and Advisory Board Recommendation: 8-yes, 0-no

Article 5. To see if the Town will vote to rescind the vote taken at the April 12, 2016 Annual Town Meeting which allocated \$15,000 of CPA Funds for a Park Accessibility Study, and reallocate \$7,498 of said funds to the Open Space/Recreation Reserve and the balance of \$7,502 to the Community Preservation Undesignated Fund Balance, or take any other action related thereto.

Community Preservation Committee

Executive Summary: This article rescinds funds which were previously appropriated for a general study of Town parks for handicapped accessibility. The Parks Commission has started completing specific improvement plans for Town parks and has determined that it is more effective to incorporate handicap accessibility issues into the specific improvement plans for each park rather than to perform general studies which are then redone during the park improvement design process. The Parks Commission maintains to goal of guaranteeing full access for mobility-impaired residents to Town parks. This article is recommended by the Community Preservation Committee and the Parks Commission

Finance and Advisory Board Recommendation: 8-yes, 0-no

Article 6. To see if the Town will vote to remove Section 7.2 of the Oak Bluffs Zoning Bylaw in full and replace it in its entirety with the following Section 7.2, and further to amend Appendix A of the Oak Bluffs Zoning By-law by Bylaws by inserting the following bold text and deleting the text shown with strikethroughs and no other changes,

or take any other action related thereto.

7.2 CONVERSION OF AN EXISTING BUILDING TO MIXED USE (COMMERCIAL WITH APARTMENT UNITS)

7.2.1 Overall

7.2.1.1 Purpose. The purpose of this Section is to:

- Allow mixed use development in the B-1 zoning district while maintaining the unique character of Oak Bluffs by encouraging the preservation of existing buildings within the historic context and setting in which they were established.
- Provide for a variety of housing needs, including reasonable, affordable accommodations for a fluctuating work force and opportunities to create moderate income and senior housing units, both of which would promote economic growth and stability in the existing B-1 district;
- Permit uses that promote rehabilitation and conversion of existing buildings in a manner that maintains the visual character of surrounding areas and reflects the architectural scale of existing development within the district;
- Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the B-1 district; and
- Allow for more compact development than may be permitted in residential zoning districts to reduce the impact of sprawl and traffic congestion.

7.2.1.2 Mixed-Use Special Permit: This section authorizes the Planning Board to issue a Special Permit allowing the following: the conversion, reconstruction, restoration or alteration of a commercial structure to provide for a mix of non-residential (retail, office, municipal, service establishments) and residential uses in some combination, in structures located on a single lot or on a parcel formed from combined lots.

7.2.1.3 Waivers: When a proposal for a mixed use development does not strictly meet the standards for a Special Permit set out in Section 7.2.6.1-6.7, the Planning Board may grant waivers of any of the standards provided it includes a justification for each waived criteria in its written decision granting the Special Permit

7.2.2 Conversion of Existing One or Two-Story Building: A one or two-story existing building may be converted to apartment units, subject to the following conditions:

1. Except by a Special Permit from the Planning Board under section 7.2.2, there shall be a maximum of two (2) apartment units for up to the first 5,000 square feet of lot area, and one (1) additional apartment unit for each additional 1,000 square feet of lot area.
2. The conversion shall comply with the rules and regulations of the Board of Health.

7.2.3 Conversion of Existing Three-Story Building to Apartment Units: An existing three-story building may be converted to apartment units, subject to the following conditions:

1. Except by a Special Permit from the Planning Board under section 7.2.3, there shall be a maximum of three (3) apartment units for up to the first 5,000 square feet of lot area, and one (1) additional apartment unit for each additional 1,000 square feet of lot area.
2. Each apartment unit shall have one off-street parking space.
3. The conversion shall comply with the rules and regulations of the Board of Health.

7.2.4 Conversion and Expansion or Tear Down and Re-Build with Expansion of Existing Building to Apartment Units: An existing building other than those set forth in Sections 7.2.2 or 7.2.3 may be converted to apartment units, subject to the following conditions:

1. Except by a Special Permit from the Planning Board under section 7.2.4, there shall be a maximum of two (2) apartment units for up to the first 5,000 square feet of lot area, and one (1) additional apartment unit for each additional 1,000 square feet of lot area.
2. Each apartment unit shall have one off-street parking space.
3. The conversion shall comply with the rules and regulations of the Board of Health.

7.2.5 Mixed Use /Apartments in B-1 District

7.2.5.1 Conditions:

1. In any conversion, reconstruction, restoration or alteration of and to an existing building of two stories or more in the B-1 District under this section, the ground floors of the buildings fronting streets, shall be reserved for nonresidential use.
2. Circulation and access to and from dwelling units may be allowed on the ground floor level.

7.2.5.2 Historic: Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by M.G.L. Chapter 40C, shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on the State or National Register of Historic Places. The design of new construction shall otherwise be in harmony with the existing neighborhood.

7.2.6 STANDARDS FOR MIXED-USE (MU) SPECIAL PERMIT

7.2.6.1 General Standards: To be eligible for consideration for a Special Permit under this Section, the proposed development shall meet the following standards (unless specifically waived by the Planning Board under Section 7.2.1.3):

1. The commercial structure to be converted, reconstructed, restored or altered shall have variation in its overall architectural design, and plans depicting building elevations, building setbacks and exterior details (roofing, siding, glazing), of the proposal, including abutting structures, shall be included in the applicant's construction documents in order to assure compatibility with existing development.
2. No building shall exceed the height currently allowed in the existing district.
3. Size of units – Units shall conform to the provisions of the State Sanitary Code, 105 CMR 410, any other state regulations as may be applicable, and with the rules and regulations of the Board of Health.

4. Bathroom, kitchen and other facilities – Units are not required to contain facilities and may share toilet, kitchen, or other facilities. Toilet and shower facilities shall conform to the provisions of the State Sanitary Code, 105 CMR 410, any other state regulations as may be applicable and with the rules and regulations of the Board of Health.
5. All roof mounted mechanical equipment must be enclosed to reduce the noise of operation and eliminate visibility of such equipment from the equivalent of an adjoining second floor level. In no case shall roof mounted equipment or the accompanying enclosures exceed a height of 6 feet above the roof deck, or occupy more than 30% of the area of the roof surface.
6. Building orientation, layout, and configuration shall be designed to provide adequate light and air for the proposed and adjoining buildings.

7.2.6.2 Drainage and Stormwater Management: Development proposals under this Section must have a surface water drainage system, which shall be designed to accommodate 100-year storm conditions. Drainage must be retained on-site, and shall not be directed to or allowed to flow off-site.

7.2.6.2 Drainage and Stormwater Management: Development proposals under this section must have a surface water drainage system which shall be designed to accommodate 100-year storm conditions. Drainage must be retained on-site and shall not be directed to or allowed to flow off-site.

7.2.6.3 Internal Roadways, Walkways, Paths and Parking Areas: These shall be designed where appropriate to provide for and promote safety; visual appeal; separation of vehicular, bicycle and pedestrian traffic; convenient connectivity within and without the MRD site; and maximum access to the various amenities and facilities on the site and to pathways on adjacent sites. All internal roadways, walkways, paths and parking areas shall be maintained by the owner or an association of unit owners, as applicable.

7.2.6.4 Parking: The number of parking spaces required under Section 5 of the Zoning Bylaw may be reduced pursuant to the parking regulations found in section 5.1.5 of the Oak Bluffs Zoning Bylaws.

7.2.6.5 Service Access, Including Deliveries and Trash Removal: Provisions shall be made for service vehicles to access the site and building for delivery and other matters so as not to obstruct pedestrian and vehicular access by residents, commercial patrons, and emergency providers.

All trash receptacles and areas to be used by service and delivery vehicles shall be visually and, to the extent reasonably practicable, acoustically buffered from adjoining residences by one or more of the following: berming, fencing, and/or planting.

7.2.6.6 Wastewater Management: All wastewater treatment and disposal facilities shall conform to the provisions of the State Sanitary Code, 310 CMR 15.00, any other state regulations as may be applicable and with the rules and regulations of the Board of Health.

7.2.6.7 Utilities: All electric, gas, telephone and water distribution lines shall be placed underground.

	DISTRICTS						
	R1	R2	R3	R4	B1	B2	HC
<u>Residential Uses</u>							
Single family dwelling	Y	Y	Y	Y	Y	Y	Y
Conversion to duplex in conformance with section 7.1	BA	BA	BA	BA	N	N	N
Rooming/boarding guest house	PB	PB	PB	N	PB	N	PB
Conversion of one or two story to apartment units in conformance with section 7.2.1	N	N	N	N	Y	N	N
Conversion of one or two story to apartment units in conformance with section 7.2.2	N	N	N	N	Y/PB	N	N
Conversion of three story to apartment units in conformance with Section 7.2.2	N	N	N	N	Y	N	N
Conversion of three story to apartment units in conformance with section 7.2.3	N	N	N	N	Y/PB	N	N
Other conversion in compliance with section 7.2.3	N	N	N	N	BA	N	N
Conversion and Expansion of Existing Building to Apartment Units in compliance with section 7.2.4	N	N	N	N	Y/PB	N	N
Flexible Development	PB	PB	PB	PB	PB	PB	PB
<u>Exempt & Institutional Uses</u>							
Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y
Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y
Child care facility	Y	Y	Y	Y	Y	Y	Y
Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y

Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y
Municipal facilities (* with the exception of recreation in R4 districts)	Y	Y	Y	Y *	Y	N	Y
Public drinking water supply facility	Y	Y	Y	Y	Y	N	Y
Health care use, less than 100,000 square feet	N	N	N	N	N	N	Y
Health care use, more than 100,000 square feet	N	N	N	N	N	N	BA
Essential services	PB	PB	PB	PB	PB	PB	PB

	DISTRICTS						
	R1	R2	R3	R4	B1	B2	HC
<u>Commercial Uses</u>							
Nonexempt agricultural use	Y	Y	Y	Y	Y	N	Y
Nonexempt educational use	PB	PB	PB	N	PB	N	PB
Motel or hotel	PB	PB	PB	N	Y	N	PB
Inn or guest house with not more than 12 rooms	N	N	N	N	Y	Y	N
Private nonprofit club or lodge	PB	PB	PB	PB	PB	N	PB
Motor vehicle sales and services	N	N	N	N	PB	N	N
Motor vehicle general and body repair	N	N	N	N	Y	N	N
Motor vehicle light service	N	N	N	N	Y	N	N
Retail stores and services not elsewhere set forth	N	N	N	N	Y	Y	N
Retail food shop	N	N	N	N	Y	Y	N
Restaurant	N	N	N	N	Y	Y	N
Restaurant, drive-in or fast food	N	N	N	N	N	N	N
Indoor commercial recreation	N	N	PB	PB	Y	N	PB

Outdoor commercial recreation	N	N	PB	PB	?	N	PB
Boat yards and boat services	PB	PB	PB	N	PB	N	PB
Bicycle sales, rental, repairs	N	N	N	N	Y	Y	N
Art galleries or studios	N	N	N	N	Y	Y	N
Craft or artisan shop	N	N	N	N	Y	Y	N
Stable	N	N	N	N	N	N	N
Stables on land containing 5 or more acres	Y	Y	Y	Y	Y	Y	Y
Adult Care	N	N	N	N	N	N	BA
Manufacturing and Light Manufacturing	N	N	N	N	PB	PB	N
	DISTRICTS						
	R1	R2	R3	R4	B1	B2	HC
<u>Other Uses</u>							
Temporary structures and uses for development	PB	PB	PB	N	PB	N	PB
Windmill	Y	Y	Y	N	Y	N	Y
<u>Residential Accessory Uses</u>							
Swimming pool	Y	Y	Y	Y			
Recreation court	Y	Y	Y	Y			
Home business	Y/BoS	Y/BoS	Y/BoS	Y/BoS	N	N	N
Windmill	Y	Y	Y	N			
Adult Day Care Homes (section 3.2.3.2)	Y/Ba	Y/Ba	Y/Ba	Y/Ba	N	N	N
Boarders in Single Family Dwelling (section 3.2.3.3)	Y/Ba	Y/Ba	Y/Ba	Y/Ba	N	N	N
Contractor's Yard (section 3.2.3.4)	Y/BoS	Y/BoS	Y/BoS	Y/BoS	N	N	N
Storage or Parking of Commercial Landscaping Equipment (section 3.2.3.5)	Y/BoS	Y/BoS	Y/BoS	Y/BoS	N	N	N

**Planning Board
Board of Selectmen**

Executive Summary: This Article seeks to provide a special permit process to govern the development of residential units above commercial uses in the B-1 zone. Referred to as “top of the shop housing” this type of development can help both meet a variety of local housing needs as well stimulate both investment and historic preservation in our downtown area. The bylaw contains detailed objectives in its first section. This mixed use pattern is already prevalent in our downtown area, yet the zoning bylaw lacks a defined special permit process to permit this type of development. It is noted that the ongoing Master Plan update process will perform a more detailed analysis of the downtown zoning which may see further reform, but in the meantime this important permit process will stimulate positive investment in this accepted use of the upper levels of downtown commercial buildings.

2/3 Vote required

Article 7. To see if the Town will vote to add section 8.5 to the Oak Bluffs Zoning By-law in order to limit marijuana establishments to an overlay district identical to the overlay district providing for Registered Marijuana Dispensaries in Section 8.4 of this By-law, or take any other action relative thereto:

8.5 MARIJUANA ESTABLISHMENT OVERLAY DISTRICT (MEOD)

8.5.1 Purpose. The purpose of this section is to establish areas in which a Marijuana Establishment may be located, while protecting the Town’s unique community character, while minimizing any adverse impact on adjacent properties, residential neighborhoods, elderly housing facilities, schools, and other places where children congregate, as well as other land uses potentially incompatible with a Marijuana Establishment. Since a Marijuana Establishment will serve both Oak Bluffs and the surrounding communities, the location of the MEOD is designed to allow for ease of access by both private vehicles and public transportation, and to provide sufficient parking from all Island locations.

8.5.2 Locations. The MEOD is composed of the following areas, which is identical to the overlay district providing for Registered Marijuana Dispensaries in Section 8.4 of this By-law.

The following parcels, as set forth on the maps of the Town Board of Assessors:

- Map 6 Parcel 43
- Map 6 Parcel 46
- Map 6 Parcel 46.1
- Map 6 Parcel 9

- Map 7 Parcel 1
- Map 24 Parcel 7
- Map 24 Parcel 8
- Map 24 Parcel 9
- Map 24 Parcel 10
- Map 24 Parcel 11
- Map 24 Parcel 12

Map 40 Parcel 10
Map 40 Parcel 11
Map 40 Parcel 11.1

8.5.3 Applicability. The MEOD shall be construed as an overlay district regarding the locations identified in Section 8.5.2. All requirements of the underlying zoning districts shall remain in full force and effect. Any as-of-right uses shall remain as-of-right uses in the MEOD, except these uses may be specifically superseded or added to by this Section. In addition, this Section provides that:

1. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana is prohibited, unless permitted as a Marijuana Establishment under this Section.
2. No Marijuana Establishment shall be established except in compliance with the provisions of this Section.
3. Nothing in this Section shall be construed to supersede federal and state laws governing the possession, sale, and distribution of narcotic drugs.
4. If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected.

8.5.4 Definitions.

1. Hemp - the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.
2. Manufacture - to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
3. Marijuana or Marihuana - all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include:
 - a. The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

- b. Hemp; or
 - c. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
4. Marijuana accessories - equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.
 5. Marijuana cultivator - an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.
 6. Marijuana establishment - a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.
 7. Marijuana product manufacturer - an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.
 8. Marijuana products - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.
 9. Marijuana testing facility - an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.
 10. Marijuana retailer - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.
 11. Process or processing - to harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in subsection (2) of this Section.

8.5.5 General Requirements and Conditions for all Marijuana Establishments.

1. All Marijuana Establishments shall be contained within a building or structure.
2. The hours of operation of a Marijuana Establishment shall be set by the Board of Appeals, but in no event shall a Marijuana Establishments be open and/or operating between the hours of 6:00 PM and 8:00 AM.

3. No special permit for a Marijuana Establishment shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further, no special permit for a Marijuana Establishment shall be issued to a corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.
4. No special permit for a Marijuana Establishment shall be issued to a person who has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28. Further, no special permit for a Marijuana Establishment shall be issued to a corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.
5. No Marijuana Establishment shall be located within 500 feet of any of the following structures or uses:
 - (a) any school attended by children under the age of 18;
 - (b) any licensed child care facility;
 - (c) any correctional facility, half-way house, or similar facility; or
 - (d) any other Marijuana Establishment.
6. No Marijuana Establishment shall be located within 500 feet of any playground, public park, public athletic field, or similar public recreational facility.
7. No Marijuana Establishment shall be located inside a building containing residential units, including transient housing, or inside a movable or mobile structure such as a van or truck.
8. Marijuana Establishments shall only sell, distribute or dispense in accordance with an act of the Legislature entitled “Regulation of the use and distribution of Marijuana not medically prescribed,” which has been inserted in the General Laws as Chapter 94G through St. 2016, c.334, s. 5, as amended (the “Act”).
9. Signage for a Marijuana Establishment shall conform to the Oak Bluffs Zoning By-law Sign Regulations or the Act, whichever is more limiting.
10. Marijuana Establishments shall provide the Board of Appeals, Board of Selectmen and Police Department with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.

11. No person who is not at least 21 years of age shall be permitted on the premises of a Marijuana Establishment during hours of operation.

12. All special permits issued under this Section will contain a condition that the Marijuana Establishment may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the Facility.

8.5.6 Special Permit Requirements.

1. A Marijuana Establishment may only be allowed by special permit from the Board of Appeals in accordance with G.L. c. 40A, § 9, and Section 10.3 of the Zoning By-law, subject to the following statements, regulations, requirements, conditions and limitations:

2. A special permit for a Marijuana Establishment shall be limited to one or more of the following uses that shall be prescribed by the Board of Appeals:

(a) cultivation of Marijuana;

(b) processing and packaging of Marijuana, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;

(c) retail sale or distribution of Marijuana; or

(d) wholesale sale of Marijuana to other Marijuana Establishments located in Oak Bluffs or in another municipality but only in accordance with State regulations.

3. In addition to the application requirements set forth in Sections 8.5.6(1) and (2), of this Section, a special permit application for a Marijuana Establishment shall include the following:

(a) A statement from the Applicant under oath, setting forth the following information:

(i) the name and address of each owner, manager, member, partner and employee of the Facility, and a statement indicating whether the application conforms to Sections 8.5.6(1) and 8.5.6(2) above;

(ii) the source of all marijuana that will be sold or distributed at the Facility, if applicable;

(iii) the source of all marijuana that will be cultivated, processed, and/or packaged at the Facility, if applicable; and

(iv) the quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the Facility.

(b) a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report.

(c) evidence of the Applicant's right to use the site of the Facility, such as a deed, lease, purchase and sale agreement or other legally-binding document.

(d) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

(e) proposed security measures for the Marijuana Establishment, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

4. Outside Consultants and Review Fees. An outside consultant review escrow deposit shall accompany the Application for special permit. The escrow for review fee is intended to cover the Board's potential cost of hiring consultants to review the Applicant's compliance with the special permit requirements under this Bylaw, and may include the anticipated costs of legal counsel. The initial escrow deposit amount shall be set by the Board of Appeals on a case-by-case basis, when such consultants or counsel are deemed necessary. Any unexpended monies in the escrow account will be returned to the applicant only after all obligations are satisfied. Failure to fulfill escrow requirements may render an Application incomplete and be considered sufficient grounds for its denial.

(a) The Applicant may appeal the selection of a consultant(s) whose fees are to be paid from the escrow deposit to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Pursuant to G.L. c. 44, § 53G, the required time limits for action upon the Application by the Board of Appeals shall be extended by the duration of the appeal. If no decision is made by the Board of Selectmen within one month following the filing of the appeal, the Board of Appeals selection shall stand.

(b) The escrow deposit shall be deposited in a special account established by the Town Treasurer pursuant to G.L. c. 44, § 53G. Funds from the special account are only for the purposes described above.

5. Mandatory Findings. The Board of Appeals shall not issue a special permit for a Marijuana Establishment unless it finds that:

(a) the Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;

(b) the applicant has not provided materially false documents or testimony; and

(c) the applicant has satisfied all of the conditions and requirements of Section 8.5.6.

6. Annual Reporting. Each Marijuana Establishment permitted under this Section shall, as a condition of its special permit, file a copy of the Annual Report submitted to the state with Board of Appeals and the Town Clerk no later than January 31st
7. If required by the Board of Appeals, a full transcription or recording of the oral hearings shall be made at the Applicant's expense.
8. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership and use of the premises as a Marijuana Establishment. A special permit may be transferred only with the approval of the Board of Appeals in the form of an amendment to the special permit.
9. Any violation of this Section shall be grounds for revocation of a special permit issued under this Section.
10. Any revocation of the Marijuana Establishments license by the state shall be grounds for revocation of the Special Permit, or take any other action related thereto.

Planning Board

Executive Summary: The MEOD zoning By-law would restrict non-medical marijuana businesses to the previously established Medical Marijuana Overlay District. The By-law was proposed in order to allow time for two important future developments. First, the State has not yet drafted the regulations on non-medical marijuana. The Town cannot plan effectively without knowing these regulations. Second, and following the release of regulations, the Town can begin the extensive public process of hearings in order to allow the residents to determine where they would and would not like to have these businesses.

2/3 vote required

Oak Bluffs Planning Board Recommendation to Town Meeting on Marijuana Establishment Overlay District Zoning By-Law Proposal:

Following a Public Hearing on October 12, 2017, the Oak Bluffs Planning Board voted 3-1, with the dissenting vote coming from Erik Albert, to recommend Town Meeting vote in favor of the MEOD zoning by-law proposal. The Board felt strongly that the Town needed to establish a district that allowed non-medical marijuana establishments in order to be consistent with the wishes of voters in the November ballot and the requirements of the Regulation and Taxation of Marijuana Act of 2016. However, the Board was equally convinced that until regulations were established at the State level, it was important to restrict this district to the minimum area required by the new law. The Board was especially concerned about non-medical edible marijuana products and their impact on Town youth. Most importantly, the Board felt that this by-law would allow time for extensive and fully informed public input, so that community members could decide where they wanted these businesses, rather than allowing prospective business owners to define that for the Town. In making its decision, the Board considered previous testimony from members of the Youth

Task Force and the Island Wide Youth Collaborative, both of whom strongly supported the proposal. There were no hearing attendees in opposition to the proposal.

Article 8. To see if the Town will vote to amend Chapter III, Animal Control of the Town Bylaws by inserting the following bold text and deleting the text shown with strikethroughs and no other changes.

Chapter III ANIMAL CONTROL (*Section replaced Art. 14 ATM 4.14.09, AG Approved 7.25.09, Published 8.8.09*)

A. Definitions

1. *Abandoned:* A canine is considered abandoned within the meaning of this chapter when it has been left alone or unattended by the owner for any period greater than 24 hours without the owner providing for its needs.
2. *Adequate Shelter:* A structure that is large enough for the animal, whether it is livestock or other domestic animal, to stand naturally, turn around and lie down inside of the structure without being exposed to the elements or weather. The roof and walls of the structure must be waterproof and windproof. Bedding must be kept dry and changed regularly to preserve insulating qualities. Insulation and an inner wall must be included in shelter for canines with short fur (example: Pointers, Staffordshire Terriers, Boxers, Labrador Retrievers) to provide adequate protection from cold. During cold weather a moveable flap must be placed over the entrance to a canine shelter to preserve the canine's body heat. Adequate shelter from sun may be provided by a tarp placed in a manner to provide deep shade and allow air to pass through for ventilation
3. *At large:* Any canine that is not under immediate control of owner via lead restraint or first call command.
4. *Complainant:* Any person, including the animal control officer who witnesses any domestic animal in the act of committing a violation under this chapter, or any other applicable law.
5. *Cruelty to Animals:* Any person who overdrives, overloads, drives when over-loaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and any person who uses in a cruel or inhuman manner in a race, game, or contest, or in training therefore, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, adequate shelter, sanitary environment free of animal waste, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind.

6. *Domestic Animal*: Any canine, feline, farm animal **including chickens and other fowl**, exotic pet or otherwise domesticated animal with an owner.
7. *Intact*: An un-spayed female canine or feline or an un-neutered male canine or feline.
8. *Owner*: Any person, group of persons or corporation owning, keeping or harboring a domestic animal.
9. *Public Nuisance*:
 - i. **The keeping of any *Domestic Animal* which emits frequent or long continued noise sufficient to disturb the reasonable comfort or repose of any person shall be deemed a public nuisance.**
 - ii. Any domestic canine shall be deemed a public nuisance when such canine is witnessed to be engaged in any of the following activities:
 - a) Attacking, threatening, harassing, or menacing toward persons, fowl, livestock or other domestic animals such as felines, canines or other household pets as determined post investigation by the animal control officer.
 - b) Being a canine at large (not under immediate control of owner via lead restraint or first call command) upon any public park, play-ground, schoolyard, beach or other public recreation area.
 - c) Being a canine at large upon any public way or private way to which the public has access, chasing motor vehicles, bicycles or pedestrians.
 - d) Being a canine at large over the age of six months, not wearing a suitable collar, current license and rabies tag.
 - e) Being a canine which has been abandoned.
 - f) Being a canine that deposits solid waste not removed by the canine's owner upon any public park, playground, schoolyard, beach or other public recreation area, public or private way, sidewalk or any property other than that of the canine's owner.
 - g) Being a canine on public beaches between May 15th to September 15th of each year between 0800 hours and 1700 hours and on the Inkwell Beach between 0700 hours and 1700 hours.
 - h) Any canine within 100 yards of a posted nesting habitat by federal and state regulation.
 - i) Any canine or feline in noncompliance with Massachusetts General Law Chapter 140 Section 145B stating whoever is the owner or keeper of a canine or feline in the Commonwealth six months of age or older shall cause such canine or feline to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such canine or feline to be revaccinated at intervals recommended by the manufacturer. Unvaccinated canines and felines acquired or moved into the Commonwealth shall be vaccinated within 90 (ninety) days after the acquisition or arrival into the Commonwealth or upon reaching the age of six months, whichever last occurs.
10. *Restraint*: The control of a *Domestic Animal* by physical means, such as a leash, fence or other means of physically confining or restraining a canine.

B. Public Nuisance Prohibited

No owner of any ***Domestic Animal canine*** shall, while such ***Domestic Animal canine*** is within the confines of the Town of Oak Bluffs, allow such ***Domestic Animal canine*** to be a public nuisance as defined above.

C. Proper Shelter

Any person owning, keeping or otherwise responsible for a companion animal or pet or farm animal or livestock who confines that animal by tethering, fencing or other means of restraint, shall provide for that animal access to adequate shelter as defined in chapter , from the elements of weather such as rain, cold, or heat. Potable water must be available to the animal at all times.

D. Trapping

No person shall use, set, place or maintain any type of jawed leg hold trap, padded or not padded, modified or unmodified, including, but not limited to, a soft catch trapping system or any type of conibear trap within the limits of any private property. Any person violating any provision of this by-law shall be punished by a fine of \$300 (three hundred dollars) for each offense.

E. Cruelty to Animals Prohibited

In compliance with Massachusetts General Law Chapter 272, Section 77 no owner of a domestic animal shall, while within the confines of the Town of Oak Bluffs, commit an act of cruelty against animals.

F. Enforcement:

1. In all cases it shall be the duty of the appointed animal control officer to investigate any violation under this chapter either witnessed by officer or reported to officer in a complaint by any citizen.
2. If after the animal control officer's investigation of an alleged violation under this chapter, such officer has reason to believe that the described violation did in fact occur as set forth in said complaint or as witnessed by officer, it shall be the animal control officer's duty to issue the owner, the appropriate order and/or impose the appropriate fine designed to prevent a recurrence or continuation of such violation. The period of time during which the order shall be in effect shall be on the order.
3. In all cases it shall be the duty of the animal control officer, if, in officer's opinion appropriate action is necessary to prevent further or continued violations of this chapter pending a complete investigation, to take the following action.
 - a. Notify the owner, if known and available, of the alleged violation and issue of an alleged violation and issue a preliminary order requiring the owner to restrain the ***canine Domestic Animal*** pending a complete investigation.
 - b. If the owner is not known or is not immediately available:
 - (i) Humanely restrain the domestic animal.
 - (ii) Confine the domestic animal in the Oak Bluffs Town Pound **or other approved animal shelter.**
 - (iii) Use available means to attempt to identify the animal's owner.
 - (iv) Take such further actions as is allowed by law.
4. It shall be the responsibility of the owner of any domestic animal impounded to reclaim such domestic animal subject to the following criteria.

- a. The owner shall pay the animal control officer **for all costs incurred for the care of the animal. –the sum of \$10** for each calendar day ~~the canine or feline~~ *Domestic Animal* was in custody.
 - b. **If said animal is a canine**, the owner shall have in their possession a current town license for said canine as well as a license tag, both of which shall have been issued with respect to that canine. The license tag shall be attached to the canine by suitable collar before the canine is released from the custody of the animal control officer.
5. Pursuant to Chapter 140 Section 173 of the Massachusetts General Laws, all canines shall be licensed by January 1st of each year. Any person who does not register, number, describe and license his or her canine annually by March 1st in the Town of Oak Bluffs, Dukes County, shall pay the fees and charges under rules and regulations pursuant to Chapter 140 Section 139 will be required to pay the Town of Oak Bluffs a penalty after the last day of February annually in the amount of \$10 on account of such failure for the first offense. Any second and subsequent failures to so register, number, describe and license the canine shall be subject to a penalty of \$15 in addition to the annual registration fee required by Dukes County regulations.
 6. Failure to comply with this section shall constitute a violation subjecting the owner of any unlicensed canine to financial penalties as are allowed by this chapter or as provided for in regulations promulgated by the Board of Selectman
 7. All monies received by the Town Clerk's office for the issuance of canine licensing or other fees, fines, charges and penalties under Chapter 140 of the Massachusetts General Laws and this chapter shall be paid into the treasury of the town.

G. Violations and Penalties

1. Fines assessed for violation of this bylaw shall be as follows:
 - a. If it is the first offense so committed by such person within a calendar year the animal control officer shall issue a written warning.
 - b. If it is the second offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (\$25.00) twenty five dollars per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
 - c. If it is the third offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (~~\$100.00 35.00~~) **thirty-five one hundred dollars** per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
 - d. If it is the fourth or subsequent offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (~~\$150.00 50.00~~) **fifty one hundred fifty dollars** per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
2. If you desire to contest this matter, you may do so by making a written request for a noncriminal hearing, and enclose a copy of the citation within 21 days of the date of the notice to the Dukes County District Court.

3. These proceedings shall be deemed noncriminal and no person notified to appear before the clerk of the District Court shall be required to report to the probation and no record of the case shall be entered in the probation records.
4. Pursuant of Chapter 272 Section 77 any person committing an act of cruelty against animals shall be punished by imprisonment in the state prison for not more the 5 years or imprisonment in the house of correction for not more then 2 ½ years or by a fine of not more the \$2,500 (two thousand five hundred dollars), or both such fine and imprisonment.
5. In addition to any other penalty provided by law, upon conviction for any violation of Town bylaw Chapter III Section E, the defendant shall forfeit to the custody of the animal to the animal control officer for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.
6. In accordance with Massachusetts General Law Chapter 140 Section 151A canines at large shall remain in the custody of the animal control officer for ten (10) days. If at the end of the ten (10) day period the canine has not been claimed by the rightful owner, it shall be surrendered to a recognized animal adoption organization,

or take any other action related thereto.

Board of Selectmen

Executive Summary: This Article makes amendments to the Town's Animal Control Bylaw to address long-standing complaints related to farm animals such as roosters located in residential areas. While the bylaw allows the keeping of such animals, it recognizes that if not properly cared for these animals can create a nuisance for area residents. The bylaw authorizes the Animal control officer to work with local residents to assess and solve complaints regarding animals in addition to canines, and provides fines if cooperation is not received by animal owners to abate a nuisance.

HEREIN FAIL NOT AND GIVE PUBLIC NOTICE BY CAUSING THIS NOTICE TO BE POSTED IN TWO (2) OR MORE PLACES IN THE TOWN AT LEAST FOURTEEN (14) DAYS BEFORE THE TIME OF SAID MEETING AND MAKE DUE RETURN OF THIS WARRANT WITH YOUR DOINGS TO THE TOWN CLERK AT THE TIME AND PLACE SPECIFIED.

GIVEN UNDER OUR HANDS THIS _____ DAY OF OCTOBER, 2017.

Kathleen A. Burton, Chairman

Gregory A. Coogan

Michael J. Santoro

Gail M. Barmakian

Brian Packish

BOARD OF SELECTMEN
TOWN OF OAK BLUFFS

PURSUANT TO THE FOREGOING INSTRUCTIONS, I HEREBY NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF OAK BLUFFS, QUALIFIED TO VOTE AS EXPRESSED IN THIS WARRANT TO VOTE AT THE TIME AND PLACE SPECIFIED.

Attest:

Constable

OFFICER'S RETURN

COUNTY OF DUKES COUNTY, ss

IN ACCORDANCE WITH THE FOREGOING INSTRUCTIONS, I HEREBY CERTIFY THAT I DID ON THE _____ DAY OF OCTOBER, 2017 GIVE PUBLIC NOTICE BY CAUSING ATTESTED COPIES OF THIS WARRANT TO BE POSTED IN TWO (2) OR

MORE PLACES IN THE TOWN OF OAK BLUFFS, AND I HEREBY MAKE RETURN
OF THIS WARRANT THIS _____ DAY OF OCTOBER 2017.

Attest:

Constable