

PLANNING BOARD PROPOSED ZONING BY LAW
AMENDMENTS
Public Hearing on March 1, 2017.

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by amending Section VIII Administration, Sections 8.2.1 and 8.2.2 as follows: (Deleted language appears as ~~striketrough~~ type; proposed language appears in **bold** type.)

SECTION 8.2 PERMITS REQUIRED

8.2.1 Construction or operations under a building or special permit shall conform to any subsequent amendment of this by-law unless the use or construction is commenced within a period of not ~~less than six~~ **more than twelve** months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

~~8.2.2 Non-complying, nonconforming structures 10 years or older. Non-complying nonconforming structures which are 10 years or older and which are provided protections under MGL c.40A, §7 are entitled to treatment as lawfully pre-existing non-conforming structures as provided in this Bylaw.~~

8.2.2 Nonconforming structures 10 years or older. Any structure or alteration to a structure in existence for a period of at least 10 years shall be deemed to be a legally nonconforming structure under MGL c. 40A, §7 and this Bylaw, provided that no notice of an action, suit, or proceeding as to an alleged violation of MGL c. 40A or this Bylaw has been recorded in the registry of deed, as provided in MGL c. 40A, §7.

SUMMARY: In 2016 the Legislature enacted, and Governor Baker signed into law, several amendments to the Zoning Act (MGL c. 40A). The proposed amendments to the Wellfleet Zoning Bylaws will bring the Bylaws into compliance with amendments made to MGL c. 40A Sections 6 and 7.

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by amending Section VIII Administration, Section 8.4.2.4 as follows: (Deleted language appears as ~~striketrough~~ type; proposed language appears in **bold** type.)

8.4 BOARD OF APPEALS

8.4.2.4 Each application for a special permit shall be filed by the petitioner with the Town Clerk and a copy of said application, including the date and time of the filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority (SPGA). Special permits shall be issued only following a public hearing to be held within sixty-five days of the date certified by the Town Clerk of the filing of the application after filing by the applicant of an application with the SPGA and

with the Town Clerk, calculated from the date certified by the Town Clerk. Special permits shall lapse within two years, ~~and not~~ including such time required to pursue or wait the determination of an appeal from the grant thereof, ~~in if~~ a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

SUMMARY: In 2016 the Legislature enacted, and Governor Baker signed into law, several amendments to the Zoning Act (MGL c. 40A). The proposed amendments to the Wellfleet Zoning Bylaws will bring the Bylaws into compliance with amendments made to MGL c. 40A Section 9.

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by amending Section VI General Regulations, Section 6.20.4 and Section VIII Administration, Section 8.4.2.4 as follows: (Deleted language appears as ~~strikethrough~~ type; proposed language appears in **bold** type.)

6.20.4 Adult entertainment uses by special permit, criteria, and conditions

Expiration

A special permit to conduct an adult entertainment use shall expire after a period of ~~two~~ **three** calendar years from its date of issuance and shall be automatically renewable for successive ~~three-~~ ~~two-~~ year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon public safety factors applied at the time that the original special permit was granted.

8.4 BOARD OF APPEALS

8.4.2.4 Each application for a special permit shall be filed by the petitioner with the Town Clerk and a copy of said application, including the date and time of the filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority (SPGA). Special permits shall be issued only following a public hearing to be held within sixty-five days of the date certified by the Town Clerk of the filing of the application after filing by the applicant of an application with the SPGA and with the Town Clerk, calculated from the date certified by the Town Clerk. Special permits shall lapse within ~~two years~~ **three years**, ~~and not~~ including such time required to pursue or wait the determination of an appeal from the grant thereof, ~~in if~~ a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

SUMMARY: In 2016 the Legislature enacted, and Governor Baker signed into law, several amendments to the Zoning Act (MGL c. 40A). Amendments to MGL c. 40A Section 9 allow, but do not require, a municipality to extend the special permit lapse period from two years to three years. Extending the lapse period allows developers and

owners to adapt more easily to economic recessions and unfavorable labor and market conditions. Town Counsel has advised the Planning Board that the special permit lapse period in Sections 8.4.2.4 and Section 6.20.4 should be consistent. The additional proposed amendments to Section 8.4.2.4 would bring that section into compliance with MGL c. 40A Section 9.

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by amending Section IX Overlay Districts, Section 9.3.11.2 as follows: (Deleted language appears as ~~strikethrough~~ type; proposed language appears in **boldface** type.)

9.3.11.2 The SPGA shall require the Applicant to post a bond at the time of construction in an amount adequate to pay the costs of removal of the RMD in the event the Town must remove the RMD. The value of the bond shall be based upon the ability to completely remove all the items noted in 9.3.11.1 and properly clean the RMD at prevailing wages. The value of the bond shall be determined based upon the Applicant's supporting information provided to the SPGA, consisting of three (3) written bids to meet the noted requirements. Use of consultants by the SPGA may be required at the expense of the applicant when evaluating or comparing the bids. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the RMD at prevailing wages. Notwithstanding the above, the bond amount is subject to review by the SPGA every three (3) years. (See "~~Potential Medical Marijuana Dispensary Overlay Zones~~" map below.)

SUMMARY: This is a housekeeping article. The deleted sentence was a directive to Annual Town Meeting voters, and was not intended to be part of the Bylaw. (Request of the Planning Board)

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by amending Section III, Section 3.3 Zoning Map and Section IX Overlay Districts, Section 9.1.2 Districts Established and Section 9.2.2 Overlay District Defined as follows: (Deleted language appears as ~~strikethrough~~ type; proposed language appears in **boldface** type.)

3.3 ZONING MAP

Said districts are bounded as shown on **the Town of Wellfleet Zoning Map, which is on file in the office of the Town Clerk. That map and a map entitled "Zoning Map Wellfleet, MA." Dated October 2004** ~~which accompanies and which, with all explanatory matter thereon is hereby made a part of this By-law.~~ The responsibility for keeping the zoning map current will be that of the Board of Selectmen or its designee.

9.1.2 Districts Established

For the purposes of this section, there is hereby established in the Town of Wellfleet two Wellhead Protection districts which are overlay districts superimposed on the zoning districts. The Wellhead Protection districts consist of:

District I – the land bounded by LeCount Hollow Road from 150 feet west of its intersection with Ocean View Drive to State Route 6; State Route 6 from LeCount Hollow road to Old County Road; Old County Road from State Route 6 to Cahoon Hollow Road; Cahoon Hollow Road from Old County Road to a point 150 feet west of its intersection with Ocean View Drive; a line 150 feet west of Ocean View Drive running from Cahoon Hollow road to LeCount Hollow Road excluding any land that lies in a Commercial District on the effective date of this bylaw.

District II – the land within a one-half mile radius of the Coles Neck well.

The ~~w~~**Wellhead Protection districts** established by this section are shown on **the Town of Wellfleet Zoning Map, a map entitled “Wellhead Protection Districts in the Town of Wellfleet”, dated April 2005**, which is on file in the office of the Town Clerk.

These overlay districts shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses.

9.2.2 Overlay District Defined

The Main Street Overlay District shall extend along the south side of Main Street, one lot in depth, from Bank Street to Holbrook Avenue. The Main Street Overlay District established by this section is shown on **the Town of Wellfleet Zoning Map, a map entitled “Main Street Overlay District in the Town of Wellfleet”, dated April 2006**, which is on file in the office of the Town Clerk. Within the Main Street Overlay District, special permits are required under this by-law for all uses and structures required to obtain a special permit by the underlying Central District zoning district.

SUMMARY: This is a housekeeping article. In 2016, the Cape Cod Commission redesigned and digitized all Town zoning maps into one document. Deleting references to map dates from these sections of the Zoning Bylaws eliminates the need to make additional amendments should redesigns occur in the future. (Request of the Planning Board)

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaw by deleting the definitions “Sign” and “Sign, Area of” from Section II, Section 2.1 Definitions and deleting Section VII Signs in its entirety, and replacing these deletions with the language below, or take any other action related thereto. (Deleted language appears as ~~strike through~~ type; proposed language appears in **boldface** type.)

SECTION II

2.1 DEFINITIONS

~~Signs~~ Any display of lettering, logos, pictorial matter, objects, colors, lights, or illuminated tubes, or the application or attachment of same to any device, surface, structure,

~~boundary wall or fence, which is visible to any member of the public, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted on the premises, excluding window displays of merchandise. A single sign may have two sides that are facing in different directions and will be measured as the larger area of the sides.~~

~~Sign, Area of—An area determined by multiplying the extreme width by the extreme height of the sign, including borders, but excluding supports which do not bear advertisement.~~

SECTION VII

SIGNS

~~7.1—OBJECTIVES—To preserve and enhance town character by requiring new or replacement signs which are compatible with their surroundings and are appropriately sized for their location. To promote the public welfare and safety through the elimination of roadside distractions.~~

7.2—SIGNS NOT REQUIRING PERMITS

~~7.2.1 One sign for each family residing on the premises indicating the owner or occupant—provided that no sign shall exceed two square feet in area.~~

~~7.2.2 One sign not over six square feet in area advertising a Home Occupation.~~

~~7.2.3 Directional signs not exceeding one square foot in area.~~

~~7.2.4 One temporary unlighted sign not over six square feet in area pertaining to the sale, rent or lease of the premises, except in the National Seashore Park District, where the sign shall not exceed two square feet in area.~~

~~7.2.5 One temporary unlighted sign not over six square feet in area pertaining to the construction or renovation of the premises, such sign to be removed upon completion of the work.~~

7.3—SIGNS REQUIRING PERMITS

~~7.3.1 One sign not over six square feet in area advertising a Service Trade Home Business.~~

~~7.3.2 A business other than a Home Occupation or Service Trade Home Business not having frontage and access on Route 6, or having frontage and access on Route 6 but located in a Zoning District other than the Commercial District, may have an aggregate total of twenty four square feet of sign area. This includes the main business sign, which shall not exceed twelve square feet in area, and all accessory signs, including temporary~~

signs.

~~7.3.3 Businesses having frontage and access on Route 6 and located in the Commercial District may have an aggregate total of one hundred square feet of sign area. This includes a main business sign, which shall not exceed sixty four square feet in area, and all accessory signs, including temporary signs.~~

~~7.3.4 Multiple businesses sharing the same parcel of land may have in addition to the signage permitted under Section 7.3.2 or 7.3.3 one sign for each additional business not exceeding eight square feet for businesses having frontage on Route 6, or six square feet for businesses located off Route 6, in area mounted on or projecting from the building.~~

~~7.3.5 One sign bearing the name of a subdivision or condominium, not to exceed eighteen square feet in area OR one ladder type sign bearing multiple names of residents, provided that each name occupies a portion of the sign which does not exceed one square foot may be erected at the entrance of a subdivision or unimproved Town way.~~

~~7.4 GENERAL PROHIBITIONS~~

~~7.4.1 Flashing signs, signs containing moving parts, and signs which create the illusion of motion are prohibited.~~

~~7.4.2 The source of any sign's illumination which is visible from any public way or from any lot other than that upon which the sign is located is prohibited.~~

~~7.4.3 All signs internally illuminated by means of a concealed light source whereby all incandescent fluorescent, or neon devices are shielded from view by opaque or translucent materials, are prohibited, except for directional signs. All neon signs are prohibited.~~

~~7.4.4 Any sign which identifies a business, service, project, activity, or lessor which is defunct or which has not existed on the premises for twelve months or more shall be considered to be an abandoned sign and is prohibited.~~

~~7.5 LOCATION OF SIGNS~~

~~7.5.1 All signs shall be set back from roadways by a distance of five feet, and must be located on the owner's property in such a way as not to obstruct the view of traffic.~~

~~7.5.2 Signs installed on the roof may not project above the ridge of said roof.~~

~~7.5.3 Signs, which project over a public way, may be installed only in the Central District on buildings, which cannot meet setback requirements, and such projection is~~

~~limited to six feet — from the face of the building. The minimum clearance of projecting signs shall be eight feet — from the public way.~~

~~7.5.4 Free standing signs along Route 6 may not exceed a height of twelve feet above the paved — surface of the roadway or eight feet above existing grade. Freestanding signs off Route 6 may — not exceed eight feet in height.~~

7.6 MAINTENANCE OF SIGNS

~~7.6.1 All signs must be maintained in a secure and safe condition.~~

~~7.6.2 Any sign which is deemed by the Building Inspector to be unsafe or to be a prohibited sign — must be removed forthwith upon issuance of a citation to the owner. After 30 days of non compliance, the Building Inspector may cause the sign to be removed at the owner's expense.~~

~~7.6.3 Wrapping signs is prohibited. Signs may be removed for winter storage or covered with — painted plywood panels or other rigid material. Removal of signs for storage or maintenance shall not jeopardize protection provided under Section 7.7 of this Sign Code.~~

7.7 NON-CONFORMING SIGNS

~~7.7.1 Non conforming signs in existence at the time of adoption of this bylaw shall be allowed to — remain until such time as the premises are transferred or sold and the name or use is changed.~~

7.8 PERMITS

~~7.8.1 No sign shall be erected or altered without a permit granted by the building Inspector, — except that signs authorized by Sections 7.2.1, 7.2.2, 7.2.3, 7.2.4 and 7.2.5 may be erected — without a sign permit.~~

~~(Attorney General approval with the understanding that signs containing non commercial messages may be displayed without the requirement of obtaining any form of permit. See Matthews v. Needham, 764 F.2d 58 (1985))~~

SECTION II

2.1. DEFINITIONS

Signs - See Section VII Signs.

Sign, Area of - See Section VII Signs

SECTION VII - SIGNS

7.1. OBJECTIVES

To preserve and enhance Town character by requiring new or replacement Signs which are compatible with their surroundings, are appropriately sized for their location and appropriate for the Zoning District within which a Sign is located without unduly restricting the conduct of lawful enterprise or expression.

To promote the public welfare and safety through the elimination of roadside distractions.

7.2. DEFINITIONS

7.2.1. Sign - Any display of lettering, logos, pictorial matter, flags other than governmental flags, banners, objects, colors, lights, or illuminated tubes, or the application or attachment of same to any device, surface, structure, boundary wall or fence, which is visible to any member of the public, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted on the premises, excluding window displays of merchandise.

7.2.2. Sign Area - The area within a single rectangle enclosing all the display area of the Sign(s), including borders, frames, structural members, and without deduction for open space or other irregularities. The area is determined by multiplying the extreme width by the extreme height above the lowest 3 feet of the supports. A single Sign may have two sides that are facing in different directions and will be measured as the larger area of the sides.

7.2.3. Sign, Temporary - Any Sign that is displayed for not more than 30 days within a calendar year. All Temporary Signs shall be related to a temporary event or activity.

7.3. ADMINISTRATION AND EXEMPTIONS

7.3.1. This Bylaw shall be administered by the Building Inspector. Except as required by law and as otherwise set forth below, no Sign shall be erected without a permit issued by the Building Inspector.

7.3.2. Signs erected by the Municipal, County, State or Federal government as may be deemed necessary for their respective functions are exempted from the provisions of the Sign Bylaw.

7.3.3. Signs required by Municipal, County, State or Federal regulation or law are exempted from the provisions of this Sign Bylaw.

7.3.4. One flag per business to a maximum size of 15 square feet is exempted from the provisions of this Sign Bylaw.

7.3.5. All Signs must be located on the premises of the use, business, occupation, event or activity for which the sign conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly.

7.3.6. All Temporary Signs shall be removed promptly upon conclusion of the events or activities announced thereon.

7.3.7. A non-conforming Sign in existence at the time of adoption of this bylaw shall be allowed to remain until one or more of the following conditions occurs: the Sign is substantially relocated, replaced, reconstructed, or the name or use of the premises related to the Sign is changed.

7.3.8. When the provisions of this Bylaw, or the drawing and specifications approved thereunder, or the terms of a permit issued thereunder, are not complied with, a stop work or removal order shall be served on the property owner and/or his representative, tenant, or person in possession of the property by the Building Inspector, and a copy thereof shall be posted at the site of the violation. Such stop work or removal order shall not be removed except by written notice from the Building Inspector's office after satisfactory evidence has been supplied that the violation has been corrected. Failure to comply with such stop work or removal order shall constitute a violation of this Bylaw. Any person violating any provision of the Bylaw shall be fined as provided in Section 8.3 from the time that the stop work or removal order is first served, for each offense.

7.3.9. Persons aggrieved by this Bylaw, or actions of the Building Inspector relative to it, may appeal to the Wellfleet Zoning Board of Appeals pursuant to Section 8.4.1.

7.4. LOCATION OF SIGNS

7.4.1. All Signs must be located on the premises in such a way as not to obstruct the view of traffic or create other safety hazards. Signs must be located with at least a 2 foot setback from the property line.

7.4.2. Signs that project over a public right of way shall be allowed only in the Central District and only on buildings which cannot meet setback requirements. Such signs shall not project more than 3 feet from the face of the building, and must have a minimum clearance of 9 feet above the public right of way. No Signs shall project over roadways. Signs projecting over a public right of way, including sidewalks, must be approved by the Board of Selectmen.

7.4.3. Signs, including Temporary Signs, shall not be placed on sidewalks.

7.5. SIGNS NOT REQUIRING PERMITS

7.5.1. One Sign for each family residing on the premises indicating the owner or occupant provided that no Sign shall exceed 2 square feet of Sign Area.

7.5.2. One unlighted sign for Home Occupations on each premises not exceeding 6 square feet of Sign Area or 5 feet in height, advertising all Home Occupation(s).

7.5.3. On each premises, not more than four unlighted directional Signs, each not exceeding 1 square foot of Sign Area.

7.5.4. On each premises, one unlighted Sign related to the sale, rent or lease, may be displayed while the premises, or any part thereof, is on offer for sale, rent or lease. Such Sign shall not exceed 6 square feet of Sign Area or 5 feet in height, except in the National Seashore Park District, where the Sign shall not exceed 2 square feet of Sign Area, or 3 feet in height.

7.5.5. On each premises, one unlighted Sign may be displayed while the premises, or any part thereof, is subject to a valid building permit. Such Sign shall not exceed 6 square feet of Sign Area or 5 feet in height and shall be related to the building permit. All such signs shall be removed prior to issuance of a Certificate of Occupancy.

7.5.6. Signs not requiring permits under this Section 7.5 shall not be included in the aggregate limits under Section 7.6.

7.6. SIGNS REQUIRING PERMITS

7.6.1. Service Trade Home Business(es) may have one Sign not exceeding 6 square feet of Sign Area or 5 feet in height on each premises.

7.6.2. Except as provided in 7.6.3. below, a business may have an aggregate total of 24 square feet of Sign Area on each premises, including Temporary Signs. No Sign shall exceed 12 square feet of Sign Area. No freestanding Sign shall exceed the greater of 8 feet in height above the natural grade, or 8 feet above the grade of the adjacent roadway. Signs may be attached to the building, however Signs attached to building sides shall not project more than 3 feet from the building and must have a minimum clearance of 9 feet above the ground level. Signs shall not project above the roof line.

7.6.2.1. For each premises located as provide in 7.6.2 and having multiple businesses, the premises may have additional Sign Area of 6 square feet for each business.

7.6.3. For a business on a premises having frontage on and access onto Route 6 and located in the Commercial District, the business may have an aggregate total of 64 square feet of Sign Area, including Temporary Signs. No Sign shall exceed 36 square feet of Sign Area. No Sign shall exceed the greater of 10 feet in height above the natural grade or 10 feet above the grade of the adjacent roadway. Signs may be attached to the building, however Signs attached to building shall not project more than 3 feet from the building sides and must have a minimum clearance of 9 feet above ground level. Signs shall not project above the roof line.

7.6.3.1. For each premises located as provided in 7.6.3 and having multiple businesses, the premises may have additional Sign Area of 9 square feet for each business.

7.6.4. One Sign bearing the name of a subdivision or condominium, not to exceed 12 square feet of Sign Area or 8 feet in height. Alternatively, the subdivision or condominium may have one ladder-type Sign, not to exceed 8 feet in height bearing multiple names of residents, provided that each name Sign does not exceed 1 square foot in Sign Area.

7.7. GENERAL PROHIBITIONS

7.7.1. Flashing Signs, Signs containing moving parts, and Signs which create the illusion of motion are prohibited.

7.7.2. The source of any Sign's illumination which is visible from any public way or from any premises other than that upon which the Sign is located is prohibited.

7.7.3. All Signs internally illuminated by means of any concealed light source are prohibited, except for directional Signs.

7.7.4. All neon, neon-like or Signs made of lights, including but not limited to Light Emitting Diode (LED), are prohibited.

7.7.5. Any Sign which identifies a business, service, project, or activity, that is defunct or which has not existed on the premises for 12 consecutive months or more shall be considered to be an abandoned Sign and is prohibited.

7.7.6. Off-premises Signs are prohibited.

7.7.7. Signs installed on the roof, or on building, shall not project above the ridge of said roof.

7.8. MAINTENANCE OF SIGNS

7.8.1 All Signs must be maintained in a secure and safe condition.

7.8.2. Any Sign that is deemed by the Building Inspector to be unsafe, not properly permitted, or to be a prohibited Sign must be removed forthwith upon issuance of a citation to the owner. After 30 consecutive days of non-compliance, the Building Inspector may cause the Sign to be removed at the owner's expense, subject to constitutional limitations and pursuant to the Building Inspector's authority to enforce this Bylaw under Section 8.1. and General Laws c. 40A, §7.

7.8.3. Wrapping of Signs is prohibited. Signs may be removed for winter storage or covered with painted plywood panels or other rigid material. Removal of Signs for storage or maintenance shall not jeopardize protection provided under Section 7.3.7. of this Bylaw.

SUMMARY: The objectives of the Sign Bylaw changes are mainly: 1.) to incorporate sign-related definitions into the Section VII Sign Bylaw for better understanding, 2.) to reorganize the principal sections into a more logical sequence, 3.) to control the sizes of the largest signs in Town which are, and should be, mainly on Route 6 in the Commercial District (C), and 4.) to amend the Bylaws to comply with the 2015 Supreme Court decision regarding the unconstitutionality of content-based regulation of speech (Reed v. Town of Gilbert).

ARTICLE _____: To see if the Town will vote to amend the Zoning Bylaws by repealing Section VI General Regulations, Section 6.30 Formula Business Special Permit, and by deleting the definition of “Business, Formula” from Section II Definitions, and further by deleting the reference to “Business, Formula” from the Commercial Use table in Section 5.3.2. as follows: (Deleted language appears as ~~striketrough~~ type; proposed language appears in **boldface** type.)

~~Business, Formula—A retail trade business which does or is required by contractual or other arrangement or as a franchise to maintain any of the following features:~~

~~Standardized (formula) array of merchandise, exterior trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols, designs, and/or architecture, façade that identifies the business as one (1) of twenty five (25) or more other businesses worldwide.~~

5.3.2 Commercial	CD	R1	R2	NSP	C	C2
Business, Formula	Ø	Ø	Ø	Ø	A	Ø

~~**6.30 FORMULA BUSINESS SPECIAL PERMIT 6.30**~~

~~(ATM 4/25/11)~~

~~6.30.1 Purpose~~

~~The purpose and intent of the Formula Business regulation is to address the adverse aesthetic, community character, and general welfare impact of standardized businesses on Wellfleet’s historic and residential areas as well as gateways to the Town. Formula businesses will have a negative impact on the town’s historical and cultural relevance, unique Cape Cod rural character, and overall attractiveness as a small town, locally-oriented tourist destination. These uses are therefore restricted in order to maintain Wellfleet’s distinct community and natural experiences.~~

6.30.2 Applicability

The proposed use of any building or structure for a Formula Business, as defined herein, shall require a Special Permit issued by the Planning Board.

6.30.3 Standards and Criteria

The property owner shall complete and submit an application for a Special Permit to the Planning Board in accordance with the Wellfleet Planning Board Guidelines and Procedures. The following standards and criteria shall apply to Special Permit applications under Section 6.30, in addition to the Special Permit Criteria imposed by Section 8.4.2:

1. Approval of the formula based business establishment will not substantially alter or detract from the established character of the location.
2. Approval of the formula based business establishment will contribute to a diverse and appropriate blend of businesses in its location.
3. The formula based business establishment will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the location's community character; and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites.
4. There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the Planning Board, the applicant may be required to submit a traffic study, prepared by a Registered Professional Engineer, approved by the board so as to ensure pedestrian and vehicular safety both on the site and accessing and egressing from it.
5. There shall not be any adverse impacts to the roadway or abutting properties from the loading area. The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there are not any substantial adverse impacts to abutting properties.
6. Minimize obstruction of scenic views from publicly accessible locations; Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned; Minimize glare from headlights and lighting intrusion.

~~7. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.~~

~~8. Architecture and signage must reflect and/or compliment surrounding architecture and signage.~~

SUMMARY: The current Section 6.30 has no standing in law. As part of its October 6, 2015 decision vacating the Board of Appeals' February 8, 2012 denial of Cumberland Farms' application for two special permits, the Commonwealth of Massachusetts Land Court declared Wellfleet's 6.30 Formula Business Special Permit bylaw invalid both facially and as applied. Therefore the bylaw is no longer enforceable, and repealing it will avoid future confusion and/or possible litigation.

ARTICLE ____: To see if the Town will vote to amend the Zoning Bylaws by amending Section II, Section 2.1, Definitions and Section V, Section 5.3, Use Regulations by inserting the language below, in alphabetical order, where appropriate, or take any other action related thereto.

Section II Definitions

Section 2.1

Food Truck – A readily movable, non-motorized trailer or cart or a motorized wheeled vehicle that is designed and equipped to cook, prepare, and/or serve food for retail sale while parked on land other than a public or private street, and shall include any food truck, food cart, canteen truck, catering truck, breakfast truck, lunch truck, lunch wagon, or any other mobile food vehicle. All Food Trucks must be registered with the Massachusetts Registry of Motor Vehicles, as required. The following Food Truck uses are exempt from this definition and do not require a special permit:

- a. A Food Truck operating at a special event licensed by the Board of Selectmen, such as Oysterfest, a carnival or similar event;
- b. A Food Truck operating as an accessory use to an outdoor municipal or governmental recreational use, including but not limited to public beaches, municipal playing fields or similar use; and
- c. A Food Truck catering a private event in any zoning district, which shall remain on the property for a period not to exceed 24-hours.

Section 5.3.2 Use Regulations

5.3.2 Commercial	CD	R1	R2	NSP	C	C2
Food Truck	A	O	O	O	A	O

SUMMARY: The appropriate use of land is regulated under the Town of Wellfleet Zoning By-Laws (WZBL). As per WZBL Section 5.2, uses not listed in WZBL Section 5.3 Use Regulations are prohibited unless the Board of Appeals "...determines that the use closely resembles in its neighborhood impact(s) a use listed as permitted or authorized under special permit, in the same zoning district." Inserting the language above into the WZBL provides clear statement of where land may be used for Food Trucks. Food Trucks operating on land other than public or private streets will be an allowed land use by Special Permit in the Central (CD) and Commercial (C) Zoning Districts, where similar uses (i.e. retail businesses and food establishments) are already permitted. Certain Food Truck uses have been exempted to 1) allow the Town of Wellfleet to continue licensing Food Trucks to operate on public land under certain circumstances, and 2) permit Food Trucks to cater private events in any zoning district. (Request of the Planning Board)