



## Wellfleet Selectboard

### **Note: Start Time of 7pm**

The Wellfleet Selectboard will hold a public meeting on **Tuesday, July 18, 2023, at 7:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

### **Joining the Meeting:**

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

### **Join the meeting hosted in Zoom by using the following link:**

<https://us02web.zoom.us/j/85689604806?pwd=b1plVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: **phone to +1 929 205 6099** and enter **Meeting ID: 856 8960 4806** | **Passcode: 611877** Landline callers can participate by dialing \*9 to raise their hand.

### **To Participate during public comment:**

- Zoom: Raise hand to be called on to speak.
- Phone: dial \*9 to raise your hand.

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. If attending a meeting in person, please find the closest available microphone and confine any personal conversations to outside the meeting room. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at [wellfleet-ma.gov](http://wellfleet-ma.gov)

---

### **I. *Announcements, Open Session and Public Comments***

**Note:** *Public comments are limited to no more than **two minutes per speaker**. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

### **II. *Consent Agenda***

- A. Collective Bargaining Ratifications
- WEA

### **III. *Board Reorganization***

### **IV. *Use of Town Property***

- A. Baker's Field Pavilion ~ Celebration of Life for Jane Tesson ~ date to be determined based on availability.

### **V. *Business***

- A. Dredging Mitigation

- B. Financial Update
- C. Town Administrator Development Plan
- D. Departmental Goals
  - Administration
  - Human Resources
  - Police
  - Fire
  - DPW
  - Building Department
  - Community Services
  - Town Clerk
  - Shellfish Department
  - Harbor Master
- E. Special Town Meeting Warrant

VI. ***Adjournment of Open Session; Enter into Executive Session; M.G.L. c.30A, Sec. 21***

*Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.*

- Collective Bargaining
  - WEA

VII. ***Adjournment***



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

I

### ANNOUNCEMENTS, OPEN SESSION, AND PUBLIC COMMENTS

<b>REQUESTED BY:</b>	Wellfleet Selectboard
<b>DESIRED ACTION:</b>	Announcements to the board and public
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b><i>NOTE: Public comments are limited to no more than two minutes per speaker.</i></b> The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 18, 2023

II

---

### CONSENT AGENDA

<b>REQUESTED BY:</b>	<b>Various Parties</b>
<b>DESIRED ACTION:</b>	<b>To approve the following without objection</b>
<b>SUMMARY:</b>	<b>I move to approve the following items with no objection:</b> <ul style="list-style-type: none"><li>• <b>Collective Bargaining Ratifications</b> <b>WEA</b></li></ul>



**AGREEMENT**  
**BETWEEN THE TOWN OF WELFLEET**  
**AND**  
**THE WELFLEET EMPLOYEES' ASSOCIATION**  
**UNIT A**  
**July 1, 2023 through June 30, 2026**

## TABLE OF CONTENTS

<b>Article 1</b>	<b>Recognition</b>	<b>3</b>
<b>Article 2</b>	<b>Definitions</b>	<b>3</b>
<b>Article 3</b>	<b>Management Rights</b>	<b>3</b>
<b>Article 4</b>	<b>Employee Rights and Representation</b>	<b>4</b>
<b>Article 5</b>	<b>Non-Discrimination</b>	<b>5</b>
<b>Article 6</b>	<b>Hiring Practices and Promotions</b>	<b>5</b>
<b>Article 7</b>	<b>Discipline Policy</b>	<b>6</b>
<b>Article 8</b>	<b>Grievance and Arbitration Procedures</b>	<b>6</b>
<b>Article 9</b>	<b>Personnel Records</b>	<b>8</b>
<b>Article 10</b>	<b>Regular Work Week</b>	<b>8</b>
<b>Article 11</b>	<b>Flex Time</b>	<b>8</b>
<b>Article 12</b>	<b>Holidays</b>	<b>9</b>
<b>Article 13</b>	<b>Vacation</b>	<b>9</b>
<b>Article 14</b>	<b>Sick Leave</b>	<b>11</b>
<b>Article 15</b>	<b>Bereavement Leave</b>	<b>14</b>
<b>Article 16</b>	<b>Jury Duty</b>	<b>14</b>
<b>Article 17</b>	<b>Military Reserve</b>	<b>14</b>
<b>Article 18</b>	<b>Leave of Absence</b>	<b>14</b>
<b>Article 19</b>	<b>Medical Leave</b>	<b>14</b>
<b>Article 20</b>	<b>Personal Days</b>	<b>14</b>
<b>Article 21</b>	<b>Longevity</b>	<b>15</b>
<b>Article 22</b>	<b>Insurance</b>	<b>15</b>
<b>Article 23</b>	<b>On-the-Job Injuries</b>	<b>15</b>
<b>Article 24</b>	<b>Working Out of Classification</b>	<b>16</b>
<b>Article 25</b>	<b>Employee Assistance Program</b>	<b>16</b>
<b>Article 26</b>	<b>Reimbursement of Job Related Education</b>	<b>16</b>
<b>Article 27</b>	<b>Use of Town Buildings</b>	<b>17</b>
<b>Article 28</b>	<b>Vehicle Use</b>	<b>17</b>
<b>Article 29</b>	<b>Wages</b>	<b>17</b>
<b>Article 30</b>	<b>Miscellaneous</b>	<b>18</b>
<b>Article 31</b>	<b>Agency Service Fee</b>	<b>18</b>
<b>Article 32</b>	<b>Union Security Clause</b>	<b>18</b>
<b>Article 33</b>	<b>Union Business Leave</b>	<b>18</b>
<b>Article 34</b>	<b>Stability of Agreement</b>	<b>18</b>
<b>Article 35</b>	<b>No Strikes</b>	<b>18</b>
<b>Article 36</b>	<b>Duration of Agreement</b>	<b>19</b>
<b>Schedule A</b>	<b>Unit A Positions</b>	<b>20</b>
<b>Schedule B</b>	<b>Wage Charts</b>	<b>22</b>
<b>Schedule C</b>	<b>Agency Service Fee Schedule</b>	<b>21</b>

## **ARTICLE 1: RECOGNITION**

The Town of Wellfleet hereby recognizes the Union as the sole and exclusive bargaining agent for the purpose of collective bargaining with respect to wages, hours and other conditions of employment for all Supervisory Personnel with the job titles set forth on Schedule A.

## **ARTICLE 2: DEFINITIONS**

Employee: Any person who works for wages or salary in the service of the Town

Department Head: A town employee having direct supervision and control of a department.

Department: Any division or branch of the Town's municipal service, whether it be under the direction and control of an appointed or elected officer, or under a board, commission, committee, or other similar agency.

Disciplinary Action: Any personnel action resulting in a written warning, suspension, demotion, or termination.

Regular Full-Time Employee: A person in the service of the Town who fills a position for not less than the regularly scheduled hours of work each week and who is engaged for a period of indefinite duration, or for a stipulated period of one year or more, or for a stipulated portion of the year of more than 35 weeks.

Regular Part-Time Employee: A person in the service of the Town who works less than the regular schedule of hours of work each week, whether working fewer hours per day or fewer days per week, but working a minimum average of 20 hours per week; and further, who is engaged for a period of indefinite duration or for a stipulated term of one year or more, and who works more than 35 weeks per year.

Regular Part-Time Fewer Than 20 hours Employee: A person in the service of the Town who works less than 20 hours per week, but who is engaged for a period of indefinite duration or for a stipulated term of one year or more, and who works more than 35 weeks per year. Employees performing in positions falling into this category shall not be eligible for benefits provided for Regular Full-Time and Regular Part-Time Employees, except as specifically stated in this contract.

Continuous Employment: Uninterrupted employment except for authorized leaves of absence. If an employee returns to employment with the town within five years of the date of termination of employment, that employee will be entitled to reinstatement of benefits with credit for previous time worked.

## **ARTICLE 3: MANAGEMENT RIGHTS**

Subsequent to the execution of this contract, the Town will continue to retain, whether exercised or not, all the rights, power and authority it currently exercises under the General Laws of the Commonwealth of Massachusetts and the Wellfleet Charter to solely manage the affairs of the Town and direct its workforce, except to the extent that such rights, power and authority have been abridged, limited, or relinquished by the terms and provisions of this Agreement. By way of example, but not limitation, management retains the following rights consistent with G.L. c. 150E:

- to determine the mission, budget, and policy of the Town and its departments;

- to determine the organization of the Town and its departments, the number of employees, the work functions, and the technology of performing them;
- to determine the numbers, types, and grades, of positions or employees assigned to an organizational unit, work project, or to any location, task, vehicle, building, station, or facility;
- to determine the methods, means, and personnel by which the Town's operations are carried out;
- to manage and direct employees of the Town and to discipline employees;
- to maintain and improve orderly procedures and the efficiency of operations;
- to layoff employees in the event of lack of work, funds, or under conditions where management believes that continuation of such work would be less efficient, less productive, or less economical;
- to assign employees to staff functions from time to time as the Town determines appropriate
- to take whatever actions may be necessary to carry out its responsibilities in situations of emergency
- to enforce existing rules and regulations for the governance of the Town and its departments, and to add to or modify such regulations as it deems appropriate.
- To conduct performance evaluations. Management will periodically review format and criteria with input from WEA.
- To assign office work space as appropriate for maximum efficiency. The WEA will receive a thirty (30) day notice of any proposed move of a WEA employee and be offered the opportunity to discuss the move with Management.
- The Town Administrator may offer a matching employment offer that is within twelve percent (12%) of the employee's current compensation, to an existing employee who has received an employment offer from another potential employer.

## **ARTICLE 4: EMPLOYEE RIGHTS AND REPRESENTATION**

### **Section 1.**

The Town agrees not to discharge, discriminate, interfere with, restrain or coerce any employee because of his/her lawful exercise of the rights set forth in Section 2 of Chapter 150E of the General Laws.

### **Section 2.**

The Town agrees that it will not discriminate against, interfere with or coerce against any employee because such employee gives testimony, takes part in grievance procedures or hearings, negotiations or conferences for or on behalf of the Union or any employee.

### **Section 3.**

Employees are free to become or refrain from becoming members of the Union. Notwithstanding membership in the Union, the Union agrees to represent fully all members of the bargaining unit.

### **Section 4.**

In the event of a conflict between any provisions of this agreement and any Personnel Ordinance, Bylaw, Rule or Regulation of the Town, the terms of the collective bargaining agreement shall prevail.

## **Section 5. Notice to Union**

The Town shall make every effort to submit written notice to the Union with the name, job title and the effective date of actions affecting employees as follows:

1. Appointment of new employee
2. Promotion
3. Suspension
4. Termination by type (retirement, disability, involuntary with cause)
5. Authorized leave of absence
6. Authorized leaves of absence of more than one (1) month

## **ARTICLE 5: NON-DISCRIMINATION**

The Town and the Union agree that they will not discriminate against any employee on the basis of race, creed, color, national or ethnic origin, gender, sexual preference, age, religion or marital status, political affiliation or activity, and membership or non-membership in the Union.

## **ARTICLE 6: HIRING PRACTICES AND PROMOTIONS**

### **Section 1. Postings, Hiring Practices and Probation**

When a new position is created or a vacancy exists that the Town determines to fill, a notice will be posted in all Town offices, wherever employees covered by this Agreement are employed, for a period of seven (7) calendar days prior to the application deadline. Internal posting of the notice shall be the responsibility of the Union. The job posting shall include the job title, salary range, a description of duties, the hours and days of work and the location, the requisite qualifications for the position, the last date for filing applications and other relevant and pertinent information.

All candidates meeting the minimum eligibility requirements for the position as determined by the Town, will be considered based on their qualifications, ability, work history and relevant experience which the Town may determine in its sole discretion

When a new employee is hired for a position within the Union, his/her salary will be within the salary range posted for the position. Should a recommended candidate's qualifications require compensation outside of the salary range due to experience and current job market conditions, Management and the WEA shall negotiate the starting salary. Such approvals shall not be unduly withheld by the union.

All new employees must submit to and pass a pre-employment fitness for duty physical examination. The Town will arrange and pay for the examination.

When a new employee is hired for a position within the Union, he/she will be employed on a probationary basis for one year following his/her initial date of hire. A terminated probationary employee is not entitled to file a grievance; termination with notice is all that is required.

### **Section 2. Promotion and Seniority Defined**

- a) A promotion shall mean advancement to a different job title with higher pay.
- b) Seniority shall mean the length of continuous employment with the Town.

### Section 3. Selection

The Town of Wellfleet is committed to a policy of hiring and promoting from within whenever possible. While selection for appointments and promotions shall be based on qualifications, seniority shall also be considered as a factor. In selecting among qualified applicants for appointments and promotions, employees with the greatest seniority shall be given preference over equally qualified applicants with lesser seniority.

### Section 4. Reclassification

Any bargaining unit member whose duties change substantially and materially change during the life of this agreement may file a request for reclassification with the Town Administrator. The Town Administrator or his/her designee shall review the reclassification request and issue a written decision within 90 days of the request. If the reclassification request is denied, the Union may submit the matter to the Board of Selectmen in accordance with Step 3 of the Grievance Procedure, and the decision of the Board shall be final and not subject to Arbitration.

## ARTICLE 7: DISCIPLINE POLICY

Employees may during the period of employment be disciplined for cause, including but not limited to: unsatisfactory job performance or attendance; and, violation of Town policies or regulations. The following steps shall be taken in the event that disciplinary action is deemed necessary.

- 1) **Oral Reprimand.** The Town Administrator, a Department Head or a supervisor may issue an oral warning to an employee. An oral reprimand shall be noted in the employee's personnel file.
- 2) **Written Reprimand.** The Town Administrator or a Department Head may issue a written warning. A copy of the written warning shall be placed in the employee's personnel file and carry a specified period in which the behavior shall be improved.
- 3) **Suspension – short term.** An employee may be suspended for up to five days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension, and the date the employee will return to work.
- 4) **Suspension – long term.** An employee may be suspended for up to ten days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension, and the date the employee will return to work.
- 5) **Discharge.** An employee may be discharged for just cause. The Town Administrator shall provide the employee with a written notice of discharge stating the reason for it and the effective date of the discharge.

The Town and Union acknowledge that application of the progressive discipline steps outlined above may not be appropriate in all instances. Based on the seriousness of the employee's misconduct, it is understood that the Town may take disciplinary action, up to and including termination, without proceeding through these disciplinary steps. It is also understood that it may be appropriate under some circumstances to impose a lesser form of discipline than is called for under the disciplinary steps.

## **Employee rights**

- 1) Employees have the right to challenge disciplinary action as it arises and to request a plan for remediation, if warranted. All disciplinary action is subject to grievance and arbitration procedures as set forth in this agreement.
- 2) Oral and written reprimands shall be removed from employee files after a period of two years if no additional infractions have occurred.

## **ARTICLE 8: GRIEVANCE AND ARBITRATION PROCEDURES**

The parties recognize that it is in the best interest of effective and harmonious performance of duties and responsibilities for prompt and equitable disposition of any grievance at the lowest organizational level possible under procedures of maximum informality and flexibility. All grievances, as defined below, shall be processed in accordance with the following procedure.

**Grievance defined:** A grievance shall be defined as a dispute over the interpretation or application of the express terms of this agreement.

**Step 1.** An employee or the Union may take up a grievance with the employee's Department Head, if applicable, within 14 calendar days of the occurrence of the event giving rise to the grievance in an attempt to resolve the grievance.

**Step 2.** If issues are not resolved in Step 1, the employee or the Union may present a grievance in writing to the Town Administrator or designee within 14 calendar days after the occurrence of the event giving rise to the grievance. The grievance shall contain:

1. Name and classification of the employee
2. Nature of the grievance
3. Steps taken to resolve the grievance informally
4. Requested remedy
5. Signature of the employee or employees involved.

The Town Administrator or designee shall have 14 calendar days to act on the grievance and his/her answer shall be in writing. During this 14 calendar day period, the Town Administrator or designee may meet with the parties involved to discuss and try to resolve the grievance. If the grievant is a Department Head and the immediate supervisor is the Town Administrator, the employee shall skip Step 2 and immediately follow procedures set forth in Step 3 below.

**Step 3.** If the employee is not satisfied with the answer given in Step 3, the grievance may be submitted to the Board of Selectmen within 14 calendar days after the answer in Step 2. The Board of Selectmen shall consider it as soon as possible and shall give its reply in writing within 30 calendar days after receipt of the grievance.

**Termination or Discharge.** In the event of a termination or discharge (following the probationary period) an employee may submit a grievance at Step 3 within 14 calendar days of the written notice of the termination or discharge.

**Arbitration.** If the grievance is not resolved by the answer of the Board of Selectmen, as provided above, the Union may within 21 calendar days after such answer, upon written notice given to the Board of Selectmen, submit the grievance to arbitration in accordance with the rules of the American Arbitration Association. The arbitrator

shall render a decision based solely upon the facts, evidence and contentions as presented by the parties during the arbitration proceedings and shall be governed by the following:

1. The decision of the arbitrator shall be final and binding upon the parties hereto except for review and confirmation as provided by Chapter 150C of the General Laws.
2. The expense of the arbitrator's services and the proceedings shall be borne equally by the parties involved.
3. The arbitrator shall be without power or authority to make any decision or award that violates the common law or statutory law of the Commonwealth or any rules and regulations promulgated pursuant thereto.
4. The arbitrator shall be without power to add or to subtract from the terms of the Agreement.
5. The arbitrator shall be without power or authority to render an award or decision concerning any matter that is excluded from the Grievance and Arbitration Procedure of this Agreement.

**Time Limits.** If the Town does not issue a written response to a grievance within the time provided in the agreement, it shall be considered a denial of the grievance and the Union or the employee may proceed to the next step of the grievance procedure. If the Union fails to timely file a grievance at step 1, or fails to timely process a grievance at any step of the grievance procedure after a written decision has been issued, the grievance shall be waived with prejudice. The filing deadlines may be extended by mutual written agreement of the parties.

**Settlement Authority.** Although the parties agree that it may be mutually beneficial to attempt to resolve their disputes at the earliest stages of the grievance process, the resolution of any grievance prior to Step 3 is subject to the Town Administrator's approval and absent such approval, the disposition shall not be binding on the Town.

#### **ARTICLE 9: PERSONNEL RECORDS**

An employee may review his or her personnel record during regular business hours within five business days of his or her request and may obtain a copy of his or her personnel file within five business days of the submission of a written request to the office of the Town Administrator. Personnel records shall be defined in accordance with G.L. c. 149, §52C. No information from an employee's personnel record, other than a simple verification of employment, shall be released without the written consent of the employee to the extent allowed by law.

An employee shall have the right to place a written reply in his/her file to all complaints, reprimands or any other material derogatory or disciplinary in nature, and have it attached to said material. The employee will be shown such material to review and initial prior to its being placed in the file. The purpose of the initials is not to imply acceptance of said material but only to indicate that the employee has reviewed the information.

Where there is disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the Town and the employee. If an agreement is not reached, the employee may submit a written statement explaining his/her position, which shall thereupon be contained therein and shall become a part of the employee's personnel record. The statement shall be included whenever information is sent to a third party, as long as the original material responded to be retained.

#### **ARTICLE 10: REGULAR WORK WEEK**

Work schedule shall consist of 5 days of in-person work schedule according to hours set by the Town Administrator or through his/her designee. Special consideration for work schedule shall be at the discretion of the Town Administrator and shall be reviewed and approved for a term no longer than one year.



## **ARTICLE 11: FLEX TIME**

Department Heads and other members of Unit A who are required to work outside of their normal work hours shall be permitted to adjust their work schedules as set forth below, although it is understood that Unit A members may be required from time to time to exceed their regular working hours so as to sufficiently complete their duties and responsibilities.

Employees will be allowed to use flex time subject to the following conditions:

- (a) Flex time: hour for hour adjustment in an employee's schedule. For example, coming in two hours late in the morning after a two-hour night meeting. Flex time can be taken at the discretion of the Department Head. Use of flex time requires approval by the Department Head.
- (b) Flex time must be used within 14 days of when it is accumulated or it will be lost.
- (c) Flex time can be used between 8:00 a.m. and 4:00 p.m. only if there is sufficient office coverage.
- (d) Employees will notify the office of the Town Administrator by email or by telephone prior to being away from their office during regular business hours.

## **ARTICLE 12: HOLIDAYS**

All regular full-time and regular part-time employees normally scheduled to work on one of the following holidays shall be given the day off with pay.

New Year's Day  
Martin Luther King Day  
President's Day  
Patriots Day  
Memorial Day  
Juneteenth  
Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving Day  
Friday after Thanksgiving  
Christmas Day

Whenever a holiday falls on a Saturday, it will be observed on the Friday immediately prior to that Saturday and when a holiday falls on a Sunday, it will be observed on the Monday immediately following that Sunday. Any employee who is required to work on a given holiday will be compensated at the rate of double time. This includes employees who work on a call-out basis, such as the dog officer and inspectors.

Vacation days may be taken immediately before and/or after holidays, with approval from the employee's supervisor.

A paid holiday falling within a vacation period will not be charged to vacation leave.

If an employee uses sick time the day before or day following a scheduled holiday, the Town may require the employee to produce a medical certificate verifying illness prior to the payment of holiday pay. The Town will pay the cost of the certificate.

Regular part time employees shall receive holiday pay based on the average number of hours worked in a day according to their schedule.

**ARTICLE 13: VACATION**

In accordance with the following rules and regulations, all regular full-time and regular part-time employees are entitled to annual vacations.

Vacation days shall accrue monthly and be credited annually on the employee’s annual date of hire according to the following schedule:

<b>Years of Service</b>	<b><u>Vacation Time Allowed</u></b>
0 up to six months	None
Six months to ten years	15 days
Ten years up to fifteen years	20 days
Fifteen years and over	25 days

Employees who have earned 30 days of vacation by June 30, 2023, will be entitled to the 30 days per year until they resign or retire.

Vacations must be taken in the anniversary year earned. Exceptions to this rule must be approved in writing by the Department Head. No more than two weeks of earned vacation may be carried over on an employee’s anniversary date. When a conflict in requests for vacation time arises, seniority shall prevail for no more than two weeks per year. The Town Administrator or his designee will approve and schedule vacations. Requests for vacation time shall not be unreasonably refused, withheld or denied.

**Vacation Buyback:** Any employee eligible for more than three weeks vacation time may elect in lieu of time off to be paid for up to four weeks of vacation time or such lesser amount of vacation time as will leave the employee with not less than two weeks of remaining vacation time. Requests must be submitted prior to March 1<sup>st</sup> or if unforeseen circumstances arise employees may request vacation buyback with approval from the Town Administrator outside of the March 1 deadline.

Any employee leaving the service of the Town shall be compensated at his/her current rate of pay for vacation time earned but not taken.

Upon the death of an employee who is eligible for vacations under this article, payment shall be made to his/her estate.

**ARTICLE 14: SICK LEAVE**

**Section 1.** Sick leave shall be defined as any absence due to the employee's injury, illness, or appointment with a doctor or other medical professional.

**Section 2.** All permanent full-time and permanent part-time employees will accrue and be entitled to use sick leave on the following basis:

- a) Regular full-time and part-time employees earn sick leave on the basis of one and one-quarter (1-¼) days for each full month of continuous employment or a total of fifteen (15) days per year. Part-time employees' and part-time less than 20-hour employees' days are based on the average number of hours worked in a day according to their regular schedule.
- b) Sick leave credits for full-time employees may be allowed to accumulate to a maximum of 150 days. Sick leave credits for permanent part-time employees may be allowed to accumulate to a maximum of 150 equivalent days.
- c) Any employee who terminates employment through retirement under G.L. Chapter 32 or death shall be entitled to cash payment at his/her current rate of pay for 25% of his/her unused accumulated sick leave up to 120 days. In case of death, the payment due hereunder shall be made to a surviving spouse, or to a designated beneficiary or to the estate.
- d) An employee who has scheduled a sick day on a day when non-essential employees are excused from work will be permitted to change the sick day to an excused absence.

**Section 3.** After an employee has been absent for sickness or injury for five (5) consecutive days or more, the Town may require the employee to submit adequate medical evidence from the employee's treating physician to support the need for the sick time and clearing the employee to return to work.

**Section 4.** The Department Head or his designee must be notified by the employee regarding the employee's absence as soon as possible, but in no event, later than one (1) hour after the beginning of the employee's workday.

**Section 5.** In the event the Town reasonably determines that an employee has abused sick leave, the Town, through the Town Administrator or through a Department Head with the approval of the Town Administrator, may disallow sick leave and/or may discipline an employee according to the provisions set forth in this agreement. Such an employee has recourse to the grievance procedures described above in Article VIII.

**Section 6.** An employee may have the option to apply accrued vacation time to sick leave in cases of prolonged illness.

**Section 7.** Employees may use up to five (5) sick days per year in increments of not less than 2 hours to care for a member of an employee's household or immediate family or an elderly relative. Requests to care for any other individuals shall require the approval of the Town Administrator which shall not be unreasonably withheld.

**Section 8.** The Sick Leave Bank (SLB) is a voluntary program for Town employees (full and part time). The basic purpose of the Sick Leave Bank is to provide additional sick days to a contributing employee for a serious, prolonged, extended illness situation. The Sick Leave Bank is available only for employee's illness. However, if an employee does not participate in the SLB by contributing sick leave hours, he/she cannot benefit from it.

**Program Details:**

Solicitation for participation in the SLB program shall occur in June for the next fiscal year. Unless an employee's participation in a SLB is covered by his/her individual employment agreement or a collective bargaining agreement, a participating employee shall contribute one quarter (1/4) day of earned sick leave each month. The participating employee's contribution shall continue until the SLB contains deposits of three hundred (300) sick leave days. At that point, all contributions of sick leave shall be suspended. If the SLB's deposited sick leave days then fall to one hundred fifty (150) or below, contributions shall resume as they existed before the suspension. The Committee charged with operating the SLB may request that participating employees make additional contributions of sick leave days if an unusual event occurs. New hires or current employees joining or rejoining the SLB shall be exempt from any freeze for one year from the time of their entrance into the program.

If a Town employee participates in the SLB during one Town fiscal year, but elects not to participate in the next, no sick leave days shall be returned to the employee. Once an employee's sick leave days enter the SLB, those sick leave hours can only be used in the SLB program.

**SLB Committee:**

The SLB program shall be administered by a SLB Committee. The committee shall have five (5) members. The members shall consist of: two (2) non Union contract employees appointed by the Town Administrator, and three (3) Union employees; one from the Wellfleet Employees Association (WEA), one from the Wellfleet Permanent Fire Fighters Union, and one from the Teamsters Union. A member of the SLB Committee may be removed from his/her position for non-attendance at four (4) consecutive SLB Committee meetings, removal or retirement from Town employment, or incapacity to serve. In the event that a member of the SLB Committee is an applicant requesting days from the SLB, an alternate voting member will be chosen from that individual's representative group to serve as a voting member for their application.

**Requests to use Sick Leave Hours from the SLB:**

Any participating employee may make a confidential written request to receive sick leave hours from the SLB. Such a request shall state the employee's full name, Town employment position and that the employee participates in the SLB. The request shall also provide an explanation with sufficient detail concerning why the request is being made at this time. Sufficient detail, in this context, means attaching appropriate medical documentation to support the claim in the request. The complete request shall be submitted in an envelope marked Confidential SLB Request and submitted to the Office of the Town Administrator. The Town Administrator shall as quickly as possible convey the writing to the SLB Committee in a manner that preserves the employee's confidentiality. Any retained copies of the employee's request shall be kept at Town Hall in a locked file cabinet.

The SLB Committee shall meet as quickly as possible to consider the employee's request. In deciding whether to grant the employee's request, the SLB Committee shall consider the following:

1. The doctor's written determination addressing the request;
2. The employee's prior circumstances with available sick leave, the expected duration of this health event, any documented abuse of sick leave and any additional compelling circumstances.

The SLB Committee shall deny an application for sick leave hours when:

1. The applicant is not a presently participating SLB employee;
2. The applicant has not already exhausted all accumulated sick leave time and any other available paid leave (except for Vacation and Personal time);
3. The applicant's specific health event does not render him/her incapable of performing his/her job

The SLB Committee may in its sole discretion deny an application when it finds any of the following to be true:

1. The applicant has abused sick leave in the past;
2. The applicant has not yet exhausted accumulated sick leave time and other available paid leave (except for Vacation and Personal time);
3. The applicant has made previous granted applications to the SLB and this application is deemed excessive; or
4. Other just cause for denying the application exists;
5. The applicant's request is not supported by appropriate information.

Any initial grant of sick leave days by the SLB Committee to an applicant shall not exceed thirty (30) days. An employee may make requests for additional sick leave days from the SLB in accordance with the application process set out above. Any additional grants by the SLB Committee of sick leave days may be made in increments of up to thirty (30) days. There is no entitlement to such an additional grant and any such additional grant shall be solely within the discretion of the SLB Committee. If an employee does not need to use the entire number of days granted, he/she shall inform the Town Administrator in writing in an envelope marked as detailed above. The Town Administrator shall retain such writing and have it placed in the employee's personnel file and treat it as a confidential medical record. Any unused sick bank time shall be returned to the bank.

All decisions of the SLB Committee shall be confidential and disclosed only to the limited extent needed to effectuate a granting of sick leave bank days to the employee. Denials shall be made only to the employee, members of the SLB Committee and the Town Administrator. Records of grants and denials shall be provided to the Town Administrator who will have such records maintained as confidential portions of the employee's personnel file.

Any decision to grant or deny an applicant's request for sick leave hours' rests solely within the discretion of a majority vote of the SLB Committee. The decision is final and cannot be appealed or contested in any manner.

#### **EMPLOYEE ACKNOWLEDGEMNT**

I have received the Sick Leave Bank Program Information of the Town of Wellfleet and understand that it is my responsibility to read the material and comply with all laws, policies and procedures set forth therein. I understand that these documents are not an employment contract and I understand that they can be changed or amended by the Town at any time with notice, subject to any collective

bargaining obligations. I give my permission to allow the SLB Committee to view my medical information which I may need to provide in order to adequately have my application evaluated and have a decision rendered.

I understand that if I have any questions or concerns about information provided in the Sick Leave Bank Program Information, it is my responsibility to request further information or clarification.

The information herein is current as of this printing. The Town reserves the right to change, modify, or amend all or part of any policy. Selectmen's policies are identified specifically and should be checked for updates before reliance upon and version.

---

Employee Name (please print full name)

---

Signature of Employee Date signed

**ARTICLE 15: BEREAVEMENT LEAVE**

In the event of the death occurring in the immediate family of an employee, he/she shall be granted bereavement leave without loss of pay up to a maximum of four (4) regular workdays. For the purpose of this section, "immediate family" shall be spouse or domestic partner, child or a step-child, parents, step-parents, parents-in-law, grandparents, grandchildren, brother, sister, step-brother and step-sister. The Town Administrator, upon recommendation of the supervisor, may grant extension of bereavement leave without loss of pay under special circumstances, or may grant exceptions to relatives listed above.

**ARTICLE 16: JURY DUTY**

An employee who is called for jury duty and must be absent from regular duties will be paid the difference between his/her normal weekly wages and the money received for jury duty, upon presentation to his/her supervisor of a certified record of jury duty pay.

**ARTICLE 17: MILITARY RESERVE**

Any regular part-time or regular full-time employee who is a member of the National Guard or other military reserves and who is required to fulfill his/her military duty obligation by a tour of active duty, shall upon application be paid the difference between the compensation received from military pay, including allowances for meals and quarters, and the employee's pay for normal hours. This is limited to a period not to exceed three (3) weeks per fiscal year.

If the employee's National Guard or Reserve Unit is activated into federal service, the employee will be granted a leave of absence without pay. However, upon deactivation from such federal service, the employee will be entitled to reinstatement to his/her former position with the town, without loss of seniority for time spent in active service.

#### **ARTICLE 18: LEAVE OF ABSENCE**

Employees, after twelve (12) months of employment, may for good and sufficient reason and with approval of the supervisor/department head and the Town Administrator be granted a leave of absence without pay. During such leave, the employee shall not be permitted to take other full-time employment. Group insurance may be continued as provided in the contract but the employee will not be eligible for holiday pay. One hundred percent (100%) of premium expenses shall be paid by the employee.

#### **ARTICLE 19: MEDICAL LEAVE**

Leave for serious illness in an employee's immediate family, giving birth or a birth in an employee's immediate family shall be taken in accordance with the Family and Medical Leave Act (FMLA) subject to the approval of the Department Head and Town Administrator. Such approval shall not be unreasonably denied.

#### **ARTICLE 20: PERSONAL DAYS**

Two-day absence with pay shall be granted any employee, after the provisional employment period, during each calendar year for the purpose of transaction of business of a personal nature that is difficult to transact during normal working hours. Such leave must be requested in writing at least 48 hours prior to the date selected, except in case of emergencies. The request must be submitted to the supervisor and/or Department Head for approval. Requests for personal leave shall not be unreasonably refused, withheld, or denied.

If a regular full-time or regular part-time employee does not utilize sick leave during any consecutive six-month period, the employee shall be granted one (1) personal day which may be taken in the following six-month period, according to the guidelines noted above. It shall be the responsibility of the employee to request and confirm the personal day with his/her supervisor and/or department head.

Personal days are not cumulative and are not to exceed one additional day within one fiscal year.

#### **ARTICLE 20A: INCLEMENT WEATHER DAYS**

In the event that Town offices are open, an employee may use either their Vacation time or their Sick time if they are unable to report to work due to inclement weather, power outages, floods, or other natural disasters or acts of nature at the discretion of the employee.

#### **ARTICLE 21: LONGEVITY**

All regular full-time employees shall receive a longevity bonus, based on anniversary date, according to the following schedule: \$375 after five (5) years of continuous service and an

additional \$50 per year for the next four years, increase to \$700 on the tenth (10<sup>th</sup>) year with an additional \$100 annually added thereafter. The longevity bonus shall be paid on the first payroll following the anniversary date to those who qualify by length of continuous service.

Regular part-time employees and Part-time less than 20 hour employees shall be entitled to one half the longevity bonus paid to full-time employees.

After ten (10) years of continuous employment, any employee who terminates employment with the town and is eligible for longevity bonus shall receive longevity payment for any time earned up to said date of termination of employment. Earned bonus will be paid at time of termination and shall be prorated if termination date does not coincide with anniversary date.

## **ARTICLE 22: INSURANCE**

### **Section 1. Health**

Regular full-time and regular part-time employees working more than 20 hours per week and at least 35 weeks per year, shall be eligible to participate in the Town of Wellfleet health insurance program. The town share of health insurance premium contribution shall be 65% for the duration of this Agreement. The Beach Administrator is not eligible to participate in the Town's health insurance program.

Employees eligible to participate must enroll in one of the offered plans that corresponds to the employee's status, i.e. an individual employee may not enroll in a family plan (unless required by the terms of a court decree)

In the event that a member wishes to decline group health insurance, the Town will pay the employee 25% of the Town's share of the least expensive plan to which the employee is entitled. Payment to eligible employees who decline participation in the Town's group health insurance plan will be made semi-annually on the first payroll in December and the last payroll in June for the previous six months. Employees who have not been on the payroll for the full prior six (6) month period will receive such payments on a pro-rated basis. Any employee who declines participation in the Town's group health insurance plan must provide sufficient proof of independent insurance coverage.

### **Section 2 – Life**

Employees may elect to participate in the Town's Group Life Insurance plan. Employees who elect to have this coverage must contribute one half of the premium cost.

## **ARTICLE 23: ON-THE-JOB INJURIES**

Employees are required to report any on-the-job injury immediately, and in no case, more than 24 hours after the incident occurs unless after the 24 hour period when notified that the employee was exposed to a hazardous material and or a communicable virus or disease. If the injury results in the inability of the employee to perform his or her job, the provisions of the workers' compensation law shall apply. The employee may receive the difference between the amount of their regular salary or wages and the amount of any disability compensation until any sick leave allowance which the employee has to his credit has been used.



**ARTICLE 24: WORKING OUT OF CLASSIFICATION**

Employees who are temporarily assigned in writing to a vacant position in a different job title with higher pay for two consecutive weeks or more, will be paid at the higher rate for working in the higher different job title with higher pay. Pay will be retroactive to the date of the assignment to the vacant position.

**ARTICLE 25: EMPLOYEE ASSISTANCE PROGRAM**

All employees shall have full rights and privileges to the Employee Assistance Program provided by the Town.

**ARTICLE 26: REIMBURSEMENT FOR JOB-RELATED EDUCATION**

Any job related education course requested by the Town will be paid for by the Town directly. Such training/education shall be recommended by the employee's department head and approved by the Town Administrator.

**Partial Reimbursement:** An employee seeking to improve his/her ability to serve the Town by taking educational and/or training courses must submit his/her written request to his/her department head. For reimbursement, any such request must be approved by both the department head and the Town Administrator prior to the beginning of the course.

- a) Unless specifically waived by the Town Administrator, the employee must take courses at times not interfering with his/her regular work schedule.
- b) The Town will pay 50% of the cost of the entrance fee, textbooks and other required materials. One half of the Town's share to be paid at outset, with remaining balance to be paid upon successful completion of the course. A minimum grade of "C" or 70% is necessary to qualify for successful completion.
- c) To qualify for partial reimbursement, the educational course must be related to the work being performed by the employee and must be at an accredited institution approved by the Town Administrator.
- d) So that the Town can fully benefit from the expenditure of funds for employee education, the employee must agree in writing, prior to taking the course, to remain in the employ of the Town for a minimum of 18 months. The 18-month period will commence following successful completion of the course. If the employee drops out of the course prior to its completion for reasons other than health or other compelling factors approved by the Town Administrator, the employee must fully reimburse the Town for the funds expended. Also, if the employee voluntarily leaves the employ of the Town prior to completion of the 18-month period, the entire cost must be reimbursed to the Town.
- e) All educational reimbursements are subject to funding by the Town
- f) With prior approval and after completion of at least one (1) year with the Town, an employee will be eligible to receive a \$100.00 bonus for a full semester course pertaining to his/her job classification, taken at an accredited college or institution.

**ARTICLE 27: USE OF TOWN BUILDINGS**

The Town will allow the Union to use meeting rooms for Union business meetings, provided that the Union has obtained permission for the use of the room from the Town, and that Town operations are not adversely affected by such meetings. Requests for use of meeting room space shall not be unreasonably withheld or denied. The Town will allow the Union to use department members “mail boxes” for exchange of information.

**ARTICLE 28: VEHICLE USE**

**Section 1. Mileage**

Employees required to use their private vehicle for official town business shall be compensated at the prevailing IRS rate.

**Section 2. Use of Town Vehicles**

Use of Town vehicles shall be negotiated and agreed upon between the Town Administrator and each Department Head for the purpose of operating each department, including but not limited to: attending meetings, emergency response, snow removal and on-call situations.

**ARTICLE 29: WAGES**

Effective July 1, 2023 wages shall be increased by 6.0% for all WEA personnel.

Effective July 1, 2024 wages shall be increased by 6.25% for all WEA personnel.

Effective July 1, 2025 wages shall be increased by 6.25% for all WEA personnel.

Newly hired employees and employees who receive promotions within the bargaining unit shall receive initial compensation of no less than 85% of the compensation received by the person vacating the position and no more than 115% of the compensation of the person vacating that position.

**ARTICLE 30: MISCELLANEOUS**

The failure of the Town or the Union to insist, in any one or more incidents, upon performance of any of the terms or conditions of this Agreement, shall not be considered as a waiver or relinquishment of the right of the Town or the Union to future performance of any such term or

condition. The obligations of the Town and the Union to such future performance shall continue in full force and effect.

If any provision of this Agreement or any application of this Agreement to any employee covered by the terms of this Agreement shall be found contrary to law by a Court of competent and final jurisdiction, such provision or application shall have effect only to the extent permitted by law, and all other provisions or applications of this Agreement shall continue in full force and effect.

#### **ARTICLE 31: AGENCY SERVICE FE**

In accordance with the provisions of General Laws, Chapter 150E, Section 12 as amended, and the Rules and Regulations of the Massachusetts Labor Relations Commission, the Town agrees that with the effective date of this Agreement or 30 days following the commencement of employment, whichever is later, each employee who elects not to join or maintain membership in the Union shall be required, as a condition of employment, to pay a fee to the Union in the amount that is authorized by Section 12, Chapter 150E. Said fee for the term of this contract is in accordance with Schedule Appendix "C". The Union agrees to indemnify the Town for damages or costs for complying with this article.

#### **ARTICLE 32: UNION SECURITY CLAUSE**

Pursuant to the provisions of general Laws, Chapter 180, Section 17A, Union dues shall be deducted by the Town from the salary of each employee who voluntarily executes and remits to the Town a form of authorization for payroll deduction. Dues are to be paid in accordance with Appendix "E". The Union agrees to indemnify the Town for damages or costs for complying with this article.

Such authorization may be withdrawn by the employee, giving at least 30 days' written notice to the Town, and by filing a copy thereof with the Treasurer of the Union. Transmittal of said dues will be made to the Union Treasurer within seven (7) calendar days after the month in which the dues are deducted.

#### **ARTICLE 33: UNION BUSINESS LEAVE**

The Union president or designee shall have available reasonable time with pay during their regular working hours to attend grievance meetings and/or hearings with the Town or to attend grievance arbitration. Additionally, members of the negotiation team shall have reasonable time to attend bargaining sessions for their bargaining unit. "Bargaining Sessions" means a collective bargaining negotiating session attended by both the Union and the Town.

#### **ARTICLE 34: STABILITY OF AGREEMENT**

No amendment, alteration or variation of the terms and provisions of this Agreement shall bind the parties hereto, unless made and executed in writing by parties hereto. Should the Union allege a change in the terms or conditions of employment inconsistent with G.L. c. 150E, it shall have fifteen (15) days from the date of any alleged change to request bargaining over such alleged change.

**ARTICLE 35: NO STRIKES**

It is understood and agreed that the services performed by the Town employees included in this Agreement are essential to public health, safety and common welfare. Therefore, the Union agrees on behalf of its members that it will not authorize, instigate, aid, condone, or engage in any strike, work stoppage or other action at any time, including upon termination of this Agreement, which will interrupt or interfere with the said service performed by the Town. No employee shall cause or take part in any strike, work stoppage or slowdown.

**ARTICLE 36: DURATION OF AGREEMENT**

This agreement shall enter into effect on July 1, 2023 and shall remain in effect up to and including June 30, 2026 or until a successor agreement is negotiated. Unless otherwise provided, all rights and benefits accruing to the members of the Union within the contract are retroactive to the date of signing by the Union and the Town.

## Schedule A

Library Director  
Assessor  
Shellfish Constable  
COA Director  
Community Services Director  
Building Inspector – Full  
Building Inspector – Part Time  
Health/Conservation Agent  
Beach Administrator  
Recreation Director

Schedule B - Wages

POSITION	FY23 Salaries	FY24	FY25	FY26
<b>Unit A</b>		<b>6.00%</b>	<b>6.25%</b>	<b>6.25%</b>
Assessor	\$88,927.76	\$ 94,263.43	\$ 100,154.89	\$ 106,414.57
Building Inspector	\$ 77,624.95	\$ 82,282.45	\$ 87,425.10	\$ 92,889.17
Community Services Director	\$103,754.23	\$ 109,979.49	\$ 116,853.21	\$ 124,156.53
Library Director	\$92,259.85	\$ 97,795.44	\$ 103,907.65	\$ 110,401.88
Recreation Director	\$82,177.83	\$ 87,108.50	\$ 92,552.79	\$ 98,337.33
Shellfish Constable	\$93,062.16	\$ 98,645.89	\$ 104,811.26	\$ 111,361.96
<b>Unit B</b>				
Admin - Comm. Sec, Water	\$ 54,173.00	\$ 57,423.38	\$ 61,012.34	\$ 64,825.61
Assessor - Data Collector	\$ 56,576.89	\$ 59,971.51	\$ 63,719.72	\$ 67,702.21
Assistant COA Director	\$ 71,952.01	\$ 76,269.13	\$ 81,035.95	\$ 86,100.70
Assistant DPW Director	\$ 87,974.96	\$ 93,253.45	\$ 99,081.80	\$ 105,274.41
Assistant Health/Conservation Agent	\$ 67,274.73	\$ 71,311.22	\$ 75,768.17	\$ 80,503.68
Assistant Library Director	\$ 67,540.35	\$ 71,592.77	\$ 76,067.32	\$ 80,821.53
Assistant Recreation Director	\$ 69,422.24	\$ 73,587.58	\$ 78,186.80	\$ 83,073.47
Assistant Shellfish Constable	\$ 74,156.57	\$ 78,605.97	\$ 83,518.84	\$ 88,738.77
Assistant Town Accountant	\$ 67,164.90	\$ 71,194.80	\$ 75,644.47	\$ 80,372.25
Assistant Treasurer/Collector	\$ 56,391.63	\$ 59,775.13	\$ 63,511.08	\$ 67,480.52
COA - Outreach Director	\$ 60,236.19	\$ 63,850.36	\$ 67,841.01	\$ 72,081.07
COA Office Assistant	\$ 54,992.70	\$ 58,292.26	\$ 61,935.53	\$ 65,806.50
Deputy Shellfish Constable	\$ 66,381.07	\$ 70,363.93	\$ 74,761.68	\$ 79,434.28
FD - Admin. Asst.	\$ 75,731.76	\$ 80,275.67	\$ 85,292.89	\$ 90,623.70
Health/Building - Admin. Asst	\$ 59,246.14	\$ 62,800.91	\$ 66,725.96	\$ 70,896.34
Health/Conservation Agent	\$97,133.55	\$ 102,961.56	\$ 109,396.66	\$ 116,233.95
Library Outreach Coordinator	\$ 46,800.80	\$ 49,608.85	\$ 52,709.40	\$ 56,003.74
Principal Clerk	\$ 64,999.91	\$ 68,899.90	\$ 73,206.15	\$ 77,781.53
Public Service Librarian	\$ 51,749.59	\$ 54,854.57	\$ 58,282.98	\$ 61,925.66
Youth Services Librarian	\$ 65,172.38	\$ 69,082.72	\$ 73,400.39	\$ 77,987.92

Schedule C

Agency Service Fees

Members Earnings

Monthly Fee

\$1 to \$9999

\$5.00

\$10,000 to \$19, 999

\$7.50

\$20,000 to \$29,999

\$15.00

\$30,000 to \$39,999

\$20.00

\$40,000 and over

\$30.00

IN WITNESS WHEREOF, the Town and Union have executed this agreement as of the 20th day of June, 2023.

TOWN OF WELLFLEET  
EMPLOYEES ASSOCIATION  
BOARD OF SELECTMEN

WELLFLEET

\_\_\_\_\_  
Ryan Curley, Chair

\_\_\_\_\_  
Nancy Vail, President

\_\_\_\_\_  
Barbara Carboni

\_\_\_\_\_  
Michael DeVasto

-

\_\_\_\_\_  
Kathleen Bacon

\_\_\_\_\_  
John Wolf



**AGREEMENT**

**BETWEEN THE TOWN OF WELLFLEET**

**AND**

**THE WELLFLEET EMPLOYEES' ASSOCIATION**

**UNIT B**

**July 1, 2023 through June 30, 2026**

## TABLE OF CONTENTS

Article 1	Recognition	3
Article 2	Definitions	3
Article 3	Management Rights	3
Article 4	Employee Rights and Representation	4
Article 5	Non-Discrimination	5
Article 6	Hiring Practices and Promotions	5
Article 7	Discipline Policy	6
Article 8	Grievance and Arbitration Procedures	6
Article 9	Personnel Records	8
Article 10	Regular Work Week	8
Article 11	Overtime	8
Article 12	Holidays	9
Article 13	Vacation	9
Article 14	Sick Leave	11
Article 15	Bereavement Leave	14
Article 16	Jury Duty	14
Article 17	Military Reserve	14
Article 18	Leave of Absence	14
Article 19	Medical Leave	14
Article 20	Personal Days	14
Article 21	Longevity	15
Article 22	Insurance	15
Article 23	On-the-Job Injuries	15
Article 24	Working Out of Classification	16
Article 25	Employee Assistance Program	16
Article 26	Reimbursement of Job Related Education	16
Article 27	Use of Town Buildings	16
Article 28	Vehicle Use	17
Article 29	Wages	17
Article 30	Miscellaneous	18
Article 31	Agency Service Fee	18
Article 32	Union Security Clause	18
Article 33	Union Business Leave	18
Article 34	Stability of Agreement	18
Article 35	No Strikes	18
Article 36	Duration of Agreement	19
Schedule A	Unit B Positions	20
Schedule B	Wage Charts	22
Schedule C	Agency Service Fee Schedule	21

## **ARTICLE 1: RECOGNITION**

The Town of Wellfleet hereby recognizes the Union as the sole and exclusive bargaining agent for the purpose of collective bargaining with respect to wages, hours and other conditions of employment for all regular full and part-time clerical and administrative employees in the job titles set forth on Schedule A and excluding the Town Executive Assistant, DPW Director, and all other confidential, managerial, casual, and other employees.

## **ARTICLE 2: DEFINITIONS**

Employee: Any person who works for wages or salary in the service of the Town

Department Head: A town employee having direct supervision and control of a department.

Department: Any division or branch of the Town's municipal service, whether it be under the direction and control of an appointed or elected officer, or under a board, commission, committee, or other similar agency.

Disciplinary Action: Any personnel action resulting in a written warning, suspension, demotion, or termination.

Regular Full-Time Employee: A person in the service of the Town who fills a position for not less than the regularly scheduled hours of work each week and who is engaged for a period of indefinite duration, or for a stipulated period of one year or more, or for a stipulated portion of the year of more than 35 weeks.

Regular Part-Time Employee: A person in the service of the Town who works less than the regular schedule of hours of work each week, whether working fewer hours per day or fewer days per week, but working a minimum average of 20 hours per week; and further, who is engaged for a period of indefinite duration or for a stipulated term of one year or more, and who works more than 35 weeks per year.

Regular Part-Time Fewer Than 20 hours Employee: A person in the service of the Town who works less than 20 hours per week, but who is engaged for a period of indefinite duration or for a stipulated term of one year or more, and who works more than 35 weeks per year. Employees performing in positions falling into this category shall not be eligible for benefits provided for Regular Full-Time and Regular Part-Time Employees, except as specifically stated in this contract.

Continuous Employment: Uninterrupted employment except for authorized leaves of absence. If an employee returns to employment with the town within five years of the date of termination of

employment, that employee will be entitled to reinstatement of benefits with credit for previous time worked.

### **ARTICLE 3: MANAGEMENT RIGHTS**

Subsequent to the execution of this contract, the Town will continue to retain, whether exercised or not, all of the rights, power and authority it currently exercises under the General Laws of the Commonwealth of Massachusetts and the Wellfleet Charter to solely manage the affairs of the Town and direct its workforce, except to the extent that such rights, power and authority have been abridged, limited, or relinquished by the terms and provisions of this Agreement. By way of example, but not limitation, management retains the following rights consistent with G.L. c. 150E:

- to determine the mission, budget, and policy of the Town and its departments;
- to determine the organization of the Town and its departments, the number of employees, the work functions, and the technology of performing them;
- to determine the numbers, types, and grades, of positions or employees assigned to an organizational unit, work project, or to any location, task, vehicle, building, station, or facility;
- to determine the methods, means, and personnel by which the Town's operations are carried out;
- to manage and direct employees of the Town and to discipline employees;
- to maintain and improve orderly procedures and the efficiency of operations;
- to layoff employees in the event of lack of work, funds, or under conditions where management believes that continuation of such work would be less efficient, less productive, or less economical;
- to assign employees to staff functions from time to time as the Town determines appropriate
- to take whatever actions may be necessary to carry out its responsibilities in situations of emergency
- to enforce existing rules and regulations for the governance of the Town and its departments, and to add to or modify such regulations as it deems appropriate
- To conduct performance evaluations. Management will periodically review format and criteria with input from WEA.
- To assign office work space as appropriate for maximum efficiency. The WEA will receive a thirty (30) day notice of any proposed move of a WEA employee and be offered the opportunity to discuss the move with Management.
- The Town Administrator may offer a matching employment offer that is within twelve percent (12%) of the employee's current compensation, to an

existing employee who has received an employment offer from another potential employer.

## **ARTICLE 4: EMPLOYEE RIGHTS AND REPRESENTATION**

### **Section 1.**

The Town agrees not to discharge, discriminate, interfere with, restrain or coerce any employee because of his/her lawful exercise of the rights set forth in Section 2 of Chapter 150E of the General Laws.

### **Section 2.**

The Town agrees that it will not discriminate against, interfere with or coerce against any employee because such employee gives testimony, takes part in grievance procedures or hearings, negotiations or conferences for or on behalf of the Union or any employee.

### **Section 3.**

Employees are free to become or refrain from becoming members of the Union. Notwithstanding membership in the Union, the Union agrees to represent fully all members of the bargaining unit.

### **Section 4.**

In the event of a conflict between any provisions of this agreement and any Personnel Ordinance, Bylaw, Rule or Regulation of the Town, the terms of the collective bargaining agreement shall prevail.

### **Section 5. Notice to Union**

The Town shall make every effort to submit written notice to the Union with the name, job title and the effective date of actions affecting employees as follows:

1. Appointment of new employee
2. Promotion
3. Suspension
4. Termination by type (retirement, disability, involuntary with cause)
5. Authorized leaves of absence of more than one (1) month

## **ARTICLE 5: NON-DISCRIMINATION**

The Town and the Union agree that they will not discriminate against any employee on the basis of race, creed, color, national or ethnic origin, gender, sexual preference, age, religion or marital status, political affiliation or activity, and membership or non-membership in the Union.

## **ARTICLE 6: HIRING PRACTICES AND PROMOTIONS**

### **Section 1. Postings, Hiring Practices and Probation**

When a new position is created or a vacancy exists that the Town determines to fill, a notice will be posted in all Town offices, wherever employees covered by this Agreement are employed, for a period of seven (7) calendar days prior to the application deadline. Internal posting of the notice shall be the responsibility of the Union. The job posting shall include the job title, salary range, a description of duties, the hours and days of work and the location, the requisite qualifications for the position, the last date for filing applications and other relevant and pertinent information.

All candidates meeting the minimum eligibility requirements for the position as determined by the Town, will be considered based on their qualifications, ability, work history and relevant experience which the Town may determine in its sole discretion

When a new employee is hired for a position within the Union, his/her salary will be within the salary range posted for the position. Should a recommended candidate's qualifications require compensation outside of the salary range due to experience and current job market conditions, Management and the WEA shall negotiate the starting salary. Such approvals shall not be unduly withheld by the union.

All new employees must submit to and pass a pre-employment fitness for duty physical examination. The Town will arrange and pay for the examination.

When a new employee is hired for a position within the Union, he/she will be employed on a probationary basis for one year following his/her initial date of hire. A terminated probationary employee is not entitled to file a grievance; termination with notice is all that is required.

### **Section 2. Promotion and Seniority Defined**

- a) A promotion shall mean advancement to a different job title with higher pay.
- b) Seniority shall mean the length of continuous employment with the Town.

### **Section 3. Selection**

The Town of Wellfleet is committed to a policy of hiring and promoting from within whenever possible. While selection for appointments and promotions shall be based on qualifications, seniority shall also be considered as a factor. In selecting among qualified applicants for appointments and promotions, employees with the greatest seniority shall be given preference over equally qualified applicants with lesser seniority.

### **Section 4. Reclassification**

Any bargaining unit member whose duties change substantially and materially during the life of this agreement may file a request for reclassification with the Town Administrator. The Town Administrator or his/her designee shall review the reclassification request and issue a written decision within 90 days of the request. If the reclassification request is denied, the Union may submit the matter to the Board of Selectmen in accordance with step 3 of the Grievance Procedure, and the decision of the Board of Selectmen shall be final and not subject to Arbitration.

## **Section 5. Shift Preference**

When more than one shift is required, employees in the same classification who work in that location may submit a written request for shift preference to the department head. Selection of employees for shift preference shall be based upon continuous service within the classification.

## **ARTICLE 7: DISCIPLINE POLICY**

Employees may during the period of employment be disciplined for cause, including but not limited to: unsatisfactory job performance or attendance; and, violation of Town policies or regulations. The following steps shall be taken in the event that disciplinary action is deemed necessary.

- 1) **Oral Reprimand.** The Town Administrator or a Department Head or a supervisor may issue an oral warning to an employee. An oral reprimand shall be noted in the employee's personnel file.
- 2) **Written Reprimand.** The Town Administrator or a Department Head may issue a written warning. A copy of the written warning shall be placed in the employee's personnel file and carry a specified period in which the behavior shall be improved.
- 3) **Suspension – short term.** An employee may be suspended for up to five days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension, and the date the employee will return to work.
- 4) **Suspension – long term.** An employee may be suspended for up to ten days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension, and the date the employee will return to work.
- 5) **Discharge.** An employee may be discharged for just cause. The Town Administrator shall provide the employee with a written notice of discharge stating the reason for it and the effective date of the discharge.

The Town and Union acknowledge that application of the progressive discipline steps outlined above may not be appropriate in all instances. Based on the seriousness of the employee's misconduct, it is understood that the Town may take disciplinary action, up to and including termination, without proceeding through these disciplinary steps. It is also understood that it may be appropriate under some circumstances to impose a lesser form of discipline than is called for under the disciplinary steps.

### **Employee rights**

- 1) Employees have the right to challenge disciplinary action as it arises and to request a plan for remediation, if warranted. All disciplinary action is subject to grievance and arbitration procedures as set forth in this agreement.
- 2) Oral and written reprimands shall be removed from employee files after a period of two years if no additional infractions have occurred.

### **ARTICLE 8: GRIEVANCE AND ARBITRATION PROCEDURES**

The parties recognize that it is in the best interest of effective and harmonious performance of duties and responsibilities for prompt and equitable disposition of any grievance at the lowest organizational level possible under procedures of maximum informality and flexibility. All grievances, as defined below, shall be processed in accordance with the following procedure.

**Grievance defined:** A grievance shall be defined as a dispute over the interpretation or application of the express terms of this agreement.

**Step 1.** An employee or the Union may take up a grievance with the employee's Department Head within 14 calendar days of the occurrence of the event giving rise to the grievance in an attempt to resolve the grievance.

**Step 2.** If issues are not resolved in Step 1, the employee or the Union may present a grievance in writing to the Town Administrator or designee within 21 calendar days after the occurrence of the event giving rise to the grievance. The grievance shall contain:

1. Name and classification of the employee
2. Nature of the grievance
3. Steps taken to resolve the grievance informally
4. Requested remedy
5. Signature of the employee or employees involved.

The Town Administrator or designee shall have 14 calendar days to act on the grievance and his/her answer shall be in writing. During this 14-day period, the Town Administrator or designee may meet with the parties involved to discuss and try to resolve the grievance. If the grievant is a Department Head and the immediate supervisor is the Town Administrator, the employee shall skip Step 2 and immediately follow procedures set forth in Step 3 below.

**Step 3.** If the employee is not satisfied with the answer given in Step 3, the grievance may be submitted to the Board of Selectmen within 14 calendar days after the answer in Step 2. The Board of Selectmen shall consider it as soon as possible and shall give its reply in writing within 30 calendar days after receipt of the grievance.

**Termination or Discharge.** In the event of a termination or discharge (following the probationary period) an employee may submit a grievance at Step 3 within 14 calendar days of the written notice of the termination or discharge.



**Arbitration.** If the grievance is not resolved by the answer of the Board of Selectmen, as provided above, the Union may within 21 calendar days after such answer, upon written notice given to the Board of Selectmen, submit the grievance to arbitration in accordance with the rules of the American Arbitration Association. The arbitrator shall render a decision based solely upon the facts, evidence and contentions as presented by the parties during the arbitration proceedings and shall be governed by the following:

1. The decision of the arbitrator shall be final and binding upon the parties hereto except for review and confirmation as provided by Chapter 150C of the General Laws.
2. The expense of the arbitrator's services and the proceedings shall be borne equally by the parties involved.
3. The arbitrator shall be without power or authority to make any decision or award that violates the common law or statutory law of the Commonwealth or any rules and regulations promulgated pursuant thereto.
4. The arbitrator shall be without power to add or to subtract from the terms of the Agreement.
5. The arbitrator shall be without power or authority to render an award or decision concerning any matter that is excluded from the Grievance and Arbitration Procedure of this Agreement.

**Time Limits.** If the Town does not issue a written response to a grievance within the time provided in the agreement, it shall be considered a denial of the grievance and the Union or the employee may proceed to the next step of the grievance procedure. If the Union fails to timely file a grievance at step I, or fails to timely process a grievance at any step of the grievance procedure after a written decision has been issued, the grievance shall be waived with prejudice. The filing deadlines may be extended by mutual written agreement of the parties.

**Settlement Authority.** Although the parties agree that it may be mutually beneficial to attempt to resolve their disputes at the earliest stages of the grievance process, the resolution of any grievance prior to Step 3 is subject to the Town Administrator's approval and absent such approval, the disposition shall not be binding on the Town.

#### **ARTICLE 9: PERSONNEL RECORDS**

An employee may review his or her personnel record during the regular business hours within five business days of his or her request, and may obtain a copy of his or her personnel file within five business days of the submission of a written request to the office of the Town Administrator. Personnel records shall be defined in accordance with G.L. c. 149 §52C. No information from an employee's personnel record, other than a simple verification of employment, shall be released without the written consent of the employee to the extent allowed by law.

An employee shall have the right to place a written reply in his or her file to all complaints, reprimands or any other material derogatory or disciplinary in nature, and have it attached to said material. The employee will be shown such material to review and initial prior to its being placed in the file. The purpose of the initials is not to imply acceptance of said material but only to indicate that the employee has reviewed the information.

Where there is disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the Town and the employee. If an agreement is not reached, the employee may submit a written statement explaining his or her position, which shall thereupon be contained therein and shall become a part of the employee's personnel record. The statement shall be included whenever information is sent to a third party, as long as the original material responded to be retained.

#### **ARTICLE 10: REGULAR WORK WEEK**

Work schedule shall consist of 5 days of in-person work schedule according to hours set by the Town Administrator or through his/her designee. Special consideration for work schedule shall be at the discretion of the Town Administrator and shall be reviewed and approved for a term no longer than 1-year.

#### **ARTICLE 11: OVERTIME**

Section 1. Employees who are required to work in excess of forty (40) hours in a work week shall be compensated for such excess hours at a rate of one and one half times their regular hourly rate of pay. Employees whose regular work week is less than forty (40) hours shall be compensated for hours in excess of their regular work week but less than forty (40) hours at their regular hourly rate of pay and at one and one half times their regular rate of pay for hours worked in excess of forty (40) hours in a work week. All overtime must be approved in writing by the Department Head or Town Administrator.

Section 2. All authorized work performed on Sunday or a holiday shall be paid at twice the regular rate of pay, except where Sunday is part of the regularly scheduled work week, in which case the seventh day of any scheduled work week shall be paid at twice the regular rate of pay. Any employee called back to work after completing his/her regular shift will be compensated at the applicable overtime rate of pay and for no less than two hours time unless otherwise authorized by Town Administrator or designee.

Section 3. Overtime shall be distributed equitably among employees capable of performing the assigned tasks and willing to work overtime hours. Compensatory time off in lieu of overtime payments may be granted at the same rate of pay subject to the approval of the Town Administrator or his/her designee. Such compensatory time off must be used within ninety (90) days unless otherwise authorized by Town Administrator or designee.

Section 4. Committee Secretaries who are required to work outside of their normal work hours to attend or prepare for Committee meetings, shall be permitted, with the approval of their Department Head to adjust their work schedules so as not to exceed the number of hours in their normal workweek or work day.

**ARTICLE 12: HOLIDAYS**

All regular full-time and regular part-time employees normally scheduled to work on one of the following holidays shall be given the day off with pay. Part time employees shall receive holiday pay prorated for their work schedule.

New Year's Day

Martin Luther King Day

President's Day

Patriots Day

Memorial Day

Independence Day

Juneteenth

Labor Day

Columbus Day

Veterans Day

Thanksgiving Day

Friday After Thanksgiving

Christmas Day

Whenever a holiday falls on a Saturday, it will be observed on the Friday immediately prior to that Saturday and when a holiday falls on a Sunday, it will be observed on the Monday immediately following that Sunday. Any employee who is required to work on a given holiday will be compensated at the rate of double time. This includes employees who work on a call-out basis, such as the dog officer and inspectors.

Vacation days may be taken immediately before and/or after holidays, with approval from the employee's supervisor.

A paid holiday falling within a vacation period will not be charged to vacation leave.

If an employee uses sick time the day before or day following a scheduled holiday, the Town may require the employee to produce a medical certificate verifying illness prior to the payment of holiday pay. The Town will pay the cost of the certificate.

**ARTICLE 13: VACATION**

In accordance with the following rules and regulations, all regular full-time and regular part-time employees are entitled to annual vacations.

Vacation days shall accrue monthly and be credited annually on the employee's anniversary date of hire according to the following schedule:

<u>Years of Service</u>	<u>Vacation Time Allowed</u>
0 up to six months	None
Six months to ten years	15 days
Ten years up to fifteen years	20 days
Fifteen years and over	25 days

Employees who have earned 30 days of vacation by June 30, 2023, will be entitled to the 30 days per year until they resign or retire.

Regular part-time fewer than 20 hour employees are entitled to annual vacations as follows:

<u>Years of Service</u>	<u>Vacation Time allowed</u>
1 – 9 years	7 day
10 or more years	14 days

Regular part-time employees and regular part-time fewer than 20 hour employee's vacation days are based on the average number of hours worked in a day according to their regular schedule.

Vacations must be taken in the anniversary year earned. Exceptions to this rule must be approved in writing by the department head. No more than two weeks of earned vacation may be carried over on an employee's anniversary date. When a conflict in requests for vacation time arises, seniority shall prevail for no more than two weeks per year. Department heads will approve and schedule vacations. Requests for vacation time shall not be unreasonably refused, withheld or denied.

**Vacation Buyback:** Any employee eligible for more than three weeks vacation time may elect in lieu of time off to be paid for up to four weeks of vacation time or such lesser amount of vacation time as will leave the employee with not less than two weeks of remaining vacation time. Requests must be submitted prior to March 1<sup>st</sup> or if unforeseen circumstances arise employees may request vacation buyback with approval from the Town Administrator outside of the March 1 deadline.

Any employee leaving the service of the Town shall be compensated at his/her current rate of pay for vacation time earned but not taken.

Upon the death of an employee who is eligible for vacations under this article, payment shall be made to his/her estate.

## **ARTICLE 14: SICK LEAVE**

**Section 1.** Sick leave shall be defined as any absence due to the employee's injury, illness, or appointment with a doctor or other medical professional.

**Section 2.** All permanent full-time and permanent part-time employees will accrue and be entitled to use sick leave on the following basis:

- a) Regular full-time and part-time employees earn sick leave on the basis of one and one-quarter (1-¼) days for each full month of continuous employment or a total of fifteen (15) days per year. Part-time employees' and part-time less than 20-hour employees' days are based on the average number of hours worked in a day according to their regular schedule.
- b) Sick leave credits for full-time employees may be allowed to accumulate to a maximum of 150 days. Sick leave credits for permanent part-time employees may be allowed to accumulate to a maximum of 150 equivalent days.
- c) Any employee who terminates employment through retirement under G.L. Chapter 32 or death shall be entitled to cash payment at his or her current rate of pay for 25% of his/her unused accumulated sick leave, up to 120 days. Employees hired after July 1, 2017 shall be entitled to a maximum payout of no more than \$3,000. In case of death, the payment due hereunder shall be made to a surviving spouse, or to a designated beneficiary or to the estate.
- d) An employee who has scheduled a sick day on a day when non-essential employees are excused from work will not be permitted to change the sick day to an excused absence.

**Section 3.** After an employee has been absent for sickness or injury for five (5) consecutive days or more, the Town may require the employee to submit adequate medical evidence from the employee's treating physician to support the need for the sick time and clearing the employee to return to work.

**Section 4.** The Department Head or his designee must be notified by the employee regarding the employee's absence as soon as possible, but in no event, later than one (1) hour after the beginning of the employee's workday.

**Section 5.** In the event the Town reasonably determines that an employee has abused sick leave, the Town, through the Town Administrator or through a Department Head with the approval of the Town Administrator, may disallow sick leave and/or may discipline an employee according to the provisions set forth in this agreement. Such an employee has recourse to the grievance procedures described above in Article VIII.

**Section 6.** An employee may have the option to apply accrued vacation time to sick leave in cases of prolonged illness.

**Section 7.** Employees may use up to five (5) sick days per year in increments of not less than 2 hours to care for a member of an employee's household or immediate family or an elderly relative. Requests to care for any other individuals shall require the approval of the Town Administrator which shall not be unreasonably withheld.

**Section 8.** The Sick Leave Bank (SLB) is a voluntary program for Town employees (full and part time). The basic purpose of the Sick Leave Bank is to provide additional sick days to a contributing

employee for a serious, prolonged, extended illness situation. The Sick Leave Bank is available only for employee's illness. However, if an employee does not participate in the SLB by contributing sick leave hours, he/she cannot benefit from it.

#### Program Details:

Solicitation for participation in the SLB program shall occur in June for the next fiscal year. Unless an employee's participation in a SLB is covered by his/her individual employment agreement or a collective bargaining agreement, a participating employee shall contribute one quarter (1/4) day of earned sick leave each month. The participating employee's contribution shall continue until the SLB contains deposits of three hundred (300) sick leave days. At that point, all contributions of sick leave shall be suspended. If the SLB's deposited sick leave days then fall to one hundred fifty (150) or below, contributions shall resume as they existed before the suspension. The Committee charged with operating the SLB may request that participating employees make additional contributions of sick leave days if an unusual event occurs. New hires or current employees joining or rejoining the SLB shall be exempt from any freeze for one year from the time of their entrance into the program.

If a Town employee participates in the SLB during one Town fiscal year, but elects not to participate in the next, no sick leave days shall be returned to the employee. Once an employee's sick leave days enter the SLB, those sick leave hours can only be used in the SLB program.

#### SLB Committee:

The SLB program shall be administered by a SLB Committee. The committee shall have five (5) members. The members shall consist of: two (2) non Union contract employees appointed by the Town Administrator, and three (3) Union employees; one from the Wellfleet Employees Association (WEA), one from the Wellfleet Permanent Fire Fighters Union, and one from the Teamsters Union. A member of the SLB Committee may be removed from his/her position for non-attendance at four (4) consecutive SLB Committee meetings, removal or retirement from Town employment, or incapacity to serve. In the event that a member of the SLB Committee is an applicant requesting days from the SLB, an alternate voting member will be chosen from that individual's representative group to serve as a voting member for their application.

#### Requests to use Sick Leave Hours from the SLB:

Any participating employee may make a confidential written request to receive sick leave hours from the SLB. Such a request shall state the employee's full name, Town employment position and that the employee participates in the SLB. The request shall also provide an explanation with sufficient detail concerning why the request is being made at this time. Sufficient detail, in this context, means attaching appropriate medical documentation to support the claim in the request. The complete request shall be submitted in an envelope marked Confidential SLB Request and submitted to the Office of the Town Administrator. The Town Administrator shall as quickly as possible convey the writing to the SLB Committee in a manner that preserves the employee's confidentiality. Any retained copies of the employee's request shall be kept at Town Hall in a locked file cabinet.

The SLB Committee shall meet as quickly as possible to consider the employee's request. In deciding whether to grant the employee's request, the SLB Committee shall consider the following:

1. The doctor's written determination addressing the request;
2. The employee's prior circumstances with available sick leave, the expected duration of this health event, any documented abuse of sick leave and any additional compelling circumstances.

The SLB Committee shall deny an application for sick leave hours when:

1. The applicant is not a presently participating SLB employee;
2. The applicant has not already exhausted all accumulated sick leave time and any other available paid leave (except for Vacation and Personal time);
3. The applicant's specific health event does not render him/her incapable of performing his/her job

The SLB Committee may in its sole discretion deny an application when it finds any of the following to be true:

1. The applicant has abused sick leave in the past;
2. The applicant has not yet exhausted accumulated sick leave time and other available paid leave (except for Vacation and Personal time);
3. The applicant has made previous granted applications to the SLB and this application is deemed excessive; or
4. Other just cause for denying the application exists;
5. The applicant's request is not supported by appropriate information.

Any initial grant of sick leave days by the SLB Committee to an applicant shall not exceed thirty (30) days. An employee may make requests for additional sick leave days from the SLB in accordance with the application process set out above. Any additional grants by the SLB Committee of sick leave days may be made in increments of up to thirty (30) days. There is no entitlement to such an additional grant and any such additional grant shall be solely within the discretion of the SLB Committee. If an employee does not need to use the entire number of days granted, he/she shall inform the Town Administrator in writing in an envelope marked as detailed above. The Town Administrator shall retain such writing and have it placed in the employee's personnel file and treat it as a confidential medical record. Any unused sick bank time shall be returned to the bank.

All decisions of the SLB Committee shall be confidential and disclosed only to the limited extent needed to effectuate a granting of sick leave bank days to the employee. Denials shall be made only to the employee, members of the SLB Committee and the Town Administrator. Records of grants and denials shall be provided to the Town Administrator who will have such records maintained as confidential portions of the employee's personnel file.

Any decision to grant or deny an applicant's request for sick leave hours' rests solely within the discretion of a majority vote of the SLB Committee. The decision is final and cannot be appealed or contested in any manner.

**EMPLOYEE ACKNOWLEDGEMENT**

I have received the Sick Leave Bank Program Information of the Town of Wellfleet and understand that it is my responsibility to read the material and comply with all laws, policies and procedures set forth therein. I understand that these documents are not an employment contract and I understand that they can be changed or amended by the Town at any time with notice, subject to any collective bargaining obligations. I give my permission to allow the SLB Committee to view my medical information which I may need to provide in order to adequately have my application evaluated and have a decision rendered.

I understand that if I have any questions or concerns about information provided in the Sick Leave Bank Program Information, it is my responsibility to request further information or clarification.

The information herein is current as of this printing. The Town reserves the right to change, modify, or amend all or part of any policy. Selectmen's policies are identified specifically and should be checked for updates before reliance upon and version.

---

Employee Name (please print full name)

---

Signature of Employee Date signed

**ARTICLE 15: BEREAVEMENT LEAVE**

In the event of the death occurring in the immediate family of an employee, he/she shall be granted bereavement leave without loss of pay up to a maximum of four (4) regular workdays. For the purpose of this section, "immediate family" shall be spouse or domestic partner, child or a step-child, parents, step-parents, parents-in-law, grandparents, grandchildren, brother, sister, step-brother and step-sister.

The Town Administrator, upon recommendation of the supervisor, may grant extension of bereavement leave without loss of pay under special circumstances, or may grant exceptions to relatives listed above.

**ARTICLE 16: JURY DUTY**

An employee who is called for jury duty and must be absent from regular duties will be paid the difference between his/her normal weekly wages and the money received for jury duty, upon presentation to his/her supervisor of a certified record of jury duty pay.



## **ARTICLE 17: MILITARY RESERVE**

Any regular part-time or regular full-time employee who is a member of the National Guard or other military reserves and who is required to fulfill his/her military duty obligation by a tour of active duty, shall upon application be paid the difference between the compensation received from military pay, including allowances for meals and quarters, and the employee's pay for normal hours. This is limited to a period not to exceed three (3) weeks per fiscal year.

If the employee's National Guard or Reserve Unit is activated into federal service, the employee will be granted a leave of absence without pay. However, upon deactivation from such federal service, the employee will be entitled to reinstatement to his/her former position with the town, without loss of seniority for time spent in active service.

## **ARTICLE 18: LEAVE OF ABSENCE**

Employees, after twelve (12) months of employment, may for good and sufficient reason and with approval of the supervisor/department head and the Town Administrator be granted a leave of absence without pay. During such leave, the employee shall not be permitted to take other full-time employment. Group insurance may be continued as provided in the contract but the employee will not be eligible for holiday pay. One hundred percent (100%) of premium expenses shall be paid by the employee.

## **ARTICLE 19: MEDICAL LEAVE**

Leave for serious illness in an employee's immediate family, giving birth or a birth in an employee's immediate family shall be taken in accordance with the Family and Medical Leave Act (FMLA) subject to the approval of the Department Head and Town Administrator. Such approval shall not be unreasonably denied.

## **ARTICLE 20: PERSONAL DAYS**

Two-day absence with pay shall be granted any employee, after the provisional employment period, during each calendar year for the purpose of transaction of business of a personal nature that is difficult to transact during normal working hours. Such leave must be requested in writing at least 48 hours prior to the date selected, except in case of emergencies. The request must be submitted to the supervisor and/or Department Head for approval. Requests for personal leave shall not be unreasonably refused, withheld, or denied.

If a regular full-time or regular part-time employee does not utilize sick leave during any consecutive six-month period, the employee shall be granted one (1) personal day which may be taken in the following six-month period, according to the guidelines noted above. It shall be the responsibility of the employee to request and confirm the personal day with his/her supervisor and/or department head.

Personal days are not cumulative and are not to exceed two additional days within one fiscal year.

### **Article 20A: Inclement Weather Days**

Up to three days of absence with pay shall be granted to any employee, during each fiscal year for the purpose of an employee who can not report to work due to inclement weather, power out

outages, floods, or other natural disasters or acts of nature at the discretion of the employee. These days expire at the end of the fiscal year and can not be carried over year to year.

#### **ARTICLE 20A INCLEMENT WEATHER POLICY**

In the event that Town offices are open, an employee may use either their Vacation time or their Sick time if they are unable to report to work due to inclement weather, power outages, floods, or other natural disasters or acts of nature at the discretion of the employee.

#### **ARTICLE 21: LONGEVITY**

All regular full-time employees shall receive a longevity bonus, based on anniversary date, according to the following schedule: \$375 after five (5) years of continuous service and an additional \$50 per year for each subsequent year. \$700 after ten (10) years of continuous service with an additional \$100 per year for each subsequent year. The longevity bonus shall be paid on the first payroll following the anniversary date to those who qualify by length of continuous service.

Regular part-time employees and Part-time less than 20 hour employees shall be entitled to one half the longevity bonus paid to full-time employees.

After ten (10) years of continuous employment, any employee who terminates employment with the town and is eligible for longevity bonus shall receive longevity payment for any time earned up to said date of termination of employment. Earned bonus will be paid at time of termination and shall be prorated if termination date does not coincide with anniversary date.

Upon the death of an employee who is eligible for a longevity bonus under this article, payment shall be made to his/her estate.

#### **ARTICLE 22: INSURANCE**

##### **Section 1. Health**

Regular full-time and regular part-time employees working more than 20 hours per week and at least 35 weeks per year, shall be eligible to participate in the Town of Wellfleet health insurance program. The town share of health insurance premium contribution shall be 65% for the duration of this Agreement. The Beach Administrator is not eligible to participate in the Town's health insurance program.

Employees eligible to participate must enroll in one of the offered plans that corresponds to the employee's status, i.e. an individual employee may not enroll in a family plan (unless required by the terms of a court decree)

In the event that a member wishes to decline group health insurance, the Town will pay the employee 25% of the Town's share of the least expensive plan to which the employee is entitled. Payment to eligible employees who decline participation in the Town's group health insurance plan will be made semi-annually on the first payroll in December and the last payroll in June for

the previous six months. Employees who have not been on the payroll for the full prior six (6) month period will receive such payments on a pro-rated basis. Any employee who declines participation in the Town's group health insurance plan must provide sufficient proof of independent insurance coverage.

## **Section 2 – Life**

Employees may elect to participate in the Town's Group Life Insurance plan. Employees who elect to have this coverage must contribute one half of the premium cost.

## **ARTICLE 23: ON-THE-JOB INJURIES**

Employees are required to report any on-the-job injury immediately, and in no case, more than 24 hours after the incident occurs unless after the 24 hour period when notified that the employee was exposed to a hazardous material and or a communicable virus or disease. If the injury results in the inability of the employee to perform his or her job, the provisions of the workers' compensation law shall apply. The employee may receive the difference between the amount of their regular salary or wages and the amount of any disability compensation until any sick leave allowance which the employee has to his credit has been used.

## **ARTICLE 24: WORKING OUT OF CLASSIFICATION**

Employees, who are temporarily assigned in writing to a vacant position in a different job title with higher pay for two consecutive weeks or more, will be paid at the higher rate for working in the different job title with higher pay. Pay will be retroactive to the date of the assignment to the vacant position.

## **ARTICLE 25: EMPLOYEE ASSISTANCE PROGRAM**

All employees shall have full rights and privileges to the Employee Assistance Program provided by the Town.

## **ARTICLE 26: REIMBURSEMENT FOR JOB-RELATED EDUCATION**

Any job related education course requested by the Town will be paid for by the Town directly. Such training/education shall be recommended by the employee's department head and approved by the Town Administrator.

**Partial Reimbursement:** An employee seeking to improve his/her ability to serve the Town by taking educational and/or training courses must submit his/her written request to his/her department head. For reimbursement, any such request must be approved by both the department head and the Town Administrator prior to the beginning of the course.

- a) Unless specifically waived by the Town Administrator, the employee must take courses at times not interfering with his/her regular work schedule.
- b) The Town will pay 50% of the cost of the entrance fee, textbooks and other required materials. One half of the Town's share to be paid at outset, with remaining balance to be paid upon successful completion of the course. A minimum grade of "C" or 70% is necessary to qualify for successful completion.

- c) To qualify for partial reimbursement, the educational course must be related to the work being performed by the employee and must be at an accredited institution approved by the Town Administrator.
- d) So that the Town can fully benefit from the expenditure of funds for employee education, the employee must agree in writing, prior to taking the course, to remain in the employ of the Town for a minimum of 18 months. The 18-month period will commence following successful completion of the course. If the employee drops out of the course prior to its completion for reasons other than health or other compelling factors approved by the Town Administrator, the employee must fully reimburse the Town for the funds expended. Also, if the employee voluntarily leaves the employ of the Town prior to completion of the 18-month period, the entire cost must be reimbursed to the Town.
- e) All educational reimbursements are subject to funding by the Town
- f) With prior approval and after completion of at least one (1) year with the Town, an employee will be eligible to receive a \$100.00 bonus for a full semester course pertaining to his/her job classification, taken at an accredited college or institution.

#### **ARTICLE 27: USE OF TOWN BUILDINGS**

The Town will allow the Union to use meeting rooms for Union business meetings, provided that the Union has obtained permission for the use of the room from the Town, and that Town operations are not adversely affected by such meetings. Requests for use of meeting room space shall not be unreasonably withheld or denied. The Town will allow the Union to use department members "mail boxes" for exchange of information.

#### **ARTICLE 28: VEHICLE USE**

##### **Section 1. Mileage**

Employees required to use their private vehicle for official town business shall be compensated at the prevailing IRS rate.

##### **Section 2. Use of Town Vehicles**

Use of Town vehicles shall be negotiated and agreed upon between the Town Administrator and each Department Head for the purpose of operating each department, including but not limited to: attending meetings, emergency response, snow removal and on-call situations.

#### **ARTICLE 29: WAGES**

Effective July 1, 2023 wages shall be increased by 6.0% for all WEA personnel.

Effective July 1, 2024 wages shall be increased by 6.25% for all WEA personnel.

Effective July 1, 2025 wages shall be increased by 6.25% for all WEA personnel.

Newly hired employees and employees who receive promotions within the bargaining unit shall receive initial compensation of no less than 85% of the compensation received by the person vacating the position and no more than 115% of the compensation of the person vacating that position.

### **ARTICLE 30: MISCELLANEOUS**

The failure of the Town or the Union to insist, in any one or more incidents, upon performance of any of the terms or conditions of this Agreement, shall not be considered as a waiver or relinquishment of the right of the Town or the Union to future performance of any such term or condition. The obligations of the Town and the Union to such future performance shall continue in full force and effect.

If any provision of this Agreement or any application of this Agreement to any employee covered by the terms of this Agreement shall be found contrary to law by a Court of competent and final jurisdiction, such provision or application shall have effect only to the extent permitted by law, and all other provisions or applications of this Agreement shall continue in full force and effect.

### **ARTICLE 31: AGENCY SERVICE FEE**

In accordance with the provisions of General Laws, Chapter 150E, Section 12 as amended, and the Rules and Regulations of the Massachusetts Labor Relations Commission, the Town agrees that with the effective date of this Agreement or 30 days following the commencement of employment, whichever is later, each employee who elects not to join or maintain membership in the Union shall be required, as a condition of employment, to pay a fee to the Union in the amount that is authorized by Section 12, Chapter 150E. Said fee for the term of this contract is in accordance with Schedule Appendix "C". The Union agrees to indemnify the Town for damages or costs for complying with this article.

### **ARTICLE 32: UNION SECURITY CLAUSE**

Pursuant to the provisions of general Laws, Chapter 180, Section 17A, Union dues shall be deducted by the Town from the salary of each employee who voluntarily executes and remits to the Town a form of authorization for payroll deduction. Dues are to be paid in accordance with Appendix "E". The Union agrees to indemnify the Town for damages or costs for complying with this article.

Such authorization may be withdrawn by the employee, giving at least 30 days' written notice to the Town, and by filing a copy thereof with the Treasurer of the Union. Transmittal of said dues will be made to the Union Treasurer within seven (7) calendar days after the month in which the dues are deducted.

### **ARTICLE 33: UNION BUSINESS LEAVE**

The Union president or designee shall have available reasonable time with pay during their regular working hours to attend grievance meetings and/or hearings with the Town or to attend grievance arbitration. Additionally, members of the negotiation team shall have reasonable time to attend bargaining sessions for their bargaining unit. "Bargaining Sessions" means a collective bargaining negotiating session attended by both the Union and the Town.

### **ARTICLE 34: STABILITY OF AGREEMENT**

No amendment, alteration or variation of the terms and provisions of this Agreement shall bind the parties hereto, unless made and executed in writing by parties hereto. Should the Union allege a change in the terms or conditions of employment inconsistent with G.L. c. 150E, it shall have fifteen (15) days from the date of any alleged change to request bargaining over such alleged change.

### **ARTICLE 35: NO STRIKES**

It is understood and agreed that the services performed by the Town employees included in this Agreement are essential to public health, safety and common welfare. Therefore, the Union agrees on behalf of its members that it will not authorize, instigate, aid, condone, or engage in any strike, work stoppage or other action at any time, including upon termination of this Agreement, which will interrupt or interfere with the said service performed by the Town. No employee shall cause or take part in any strike, work stoppage or slowdown.

### **ARTICLE 36: DURATION OF AGREEMENT**

This agreement shall enter into effect on July 1, 2023 and shall remain in effect up to and including June 30, 2026 or until a successor agreement is negotiated. Unless otherwise provided, all rights and benefits accruing to the members of the Union within the contract are retroactive to the date of signing by the Union and the Town.

Schedule A  
Bargaining Unit B Positions

Accounting Clerk  
Administration Clerk  
Administrative Assistant-Building, Health, Conservation  
Administrative Assistant-Building, Health  
Administrative Assistant-Fire  
Animal Control Officer  
Assessor Clerk  
Assessor Data Collector  
Assistant DPW Director  
Assistant Health & Conservation Agent  
Assistant Shellfish Constable  
Assistant to Clerk, Treasurer  
Assistant Library Director  
Assistant Recreation Director  
Assistant to Town Accountant  
COA-Office Assistant  
COA-Office Manager  
COA-Outreach Coordinator  
Committee Secretary-Board of Health  
Committee Secretary-Water System Clerk  
Deputy Shellfish Constable  
Library Assistant-I  
Library Assistant-II  
Library-Technical Services  
Library-Youth Services  
Principal Clerk  
Tax Collector Clerk

Schedule B - Wages

POSITION	FY23 Salaries	FY24	FY25	FY26
<b>Unit A</b>		<b>6.00%</b>	<b>6.25%</b>	<b>6.25%</b>
Assessor	\$88,927.76	\$ 94,263.43	\$ 100,154.89	\$ 106,414.57
Building Inspector	\$ 77,624.95	\$ 82,282.45	\$ 87,425.10	\$ 92,889.17
Community Services Director	\$103,754.23	\$ 109,979.49	\$ 116,853.21	\$ 124,156.53
Library Director	\$92,259.85	\$ 97,795.44	\$ 103,907.65	\$ 110,401.88
Recreation Director	\$82,177.83	\$ 87,108.50	\$ 92,552.79	\$ 98,337.33
Shellfish Constable	\$93,062.16	\$ 98,645.89	\$ 104,811.26	\$ 111,361.96
<b>Unit B</b>				
Admin - Comm. Sec, Water	\$ 54,173.00	\$ 57,423.38	\$ 61,012.34	\$ 64,825.61
Assessor - Data Collector	\$ 56,576.89	\$ 59,971.51	\$ 63,719.72	\$ 67,702.21
Assistant COA Director	\$ 71,952.01	\$ 76,269.13	\$ 81,035.95	\$ 86,100.70
Assistant DPW Director	\$ 87,974.96	\$ 93,253.45	\$ 99,081.80	\$ 105,274.41
Assistant Health/Conservation Agent	\$ 67,274.73	\$ 71,311.22	\$ 75,768.17	\$ 80,503.68
Assistant Library Director	\$ 67,540.35	\$ 71,592.77	\$ 76,067.32	\$ 80,821.53
Assistant Recreation Director	\$ 69,422.24	\$ 73,587.58	\$ 78,186.80	\$ 83,073.47
Assistant Shellfish Constable	\$ 74,156.57	\$ 78,605.97	\$ 83,518.84	\$ 88,738.77
Assistant Town Accountant	\$ 67,164.90	\$ 71,194.80	\$ 75,644.47	\$ 80,372.25
Assistant Treasurer/Collector	\$ 56,391.63	\$ 59,775.13	\$ 63,511.08	\$ 67,480.52
COA - Outreach Director	\$ 60,236.19	\$ 63,850.36	\$ 67,841.01	\$ 72,081.07
COA Office Assistant	\$ 54,992.70	\$ 58,292.26	\$ 61,935.53	\$ 65,806.50
Deputy Shellfish Constable	\$ 66,381.07	\$ 70,363.93	\$ 74,761.68	\$ 79,434.28
FD - Admin. Asst.	\$ 75,731.76	\$ 80,275.67	\$ 85,292.89	\$ 90,623.70
Health/Building - Admin. Asst	\$ 59,246.14	\$ 62,800.91	\$ 66,725.96	\$ 70,896.34
Health/Conservation Agent	\$97,133.55	\$ 102,961.56	\$ 109,396.66	\$ 116,233.95
Library Outreach Coordinator	\$ 46,800.80	\$ 49,608.85	\$ 52,709.40	\$ 56,003.74
Principal Clerk	\$ 64,999.91	\$ 68,899.90	\$ 73,206.15	\$ 77,781.53
Public Service Librarian	\$ 51,749.59	\$ 54,854.57	\$ 58,282.98	\$ 61,925.66
Youth Services Librarian	\$ 65,172.38	\$ 69,082.72	\$ 73,400.39	\$ 77,987.92



## Schedule C

### Agency Service Fees

Members Earnings	Monthly Fee
\$1 to \$9999	\$5.00
\$10,000 to \$19, 999	\$7.50
\$20,000 to \$29,999	\$15.00
\$30,000 to \$39,999	\$20.00
\$40,000 and over	\$30.00

IN WITNESS WHEREOF, the Town and Union have executed this agreement as of the 20th day of June, 2023.

TOWN OF WELLFLEET  
BOARD OF SELECTMEN

WELLFLEET EMPLOYEES ASSOCIATION

\_\_\_\_\_  
Ryan Curley, Chair

\_\_\_\_\_  
Nancy Vail, President

\_\_\_\_\_  
Barbara Carboni

\_\_\_\_\_  
Michael DeVasto

—

\_\_\_\_\_  
Kathleen Bacon

\_\_\_\_\_  
John Wolf

AGREEMENT  
BETWEEN THE TOWN OF WELLFLEET  
AND  
THE WELLFLEET EMPLOYEES' ASSOCIATION  
UNIT C  
July 1, 2023 through June 30, 2026

## TABLE OF CONTENTS

ARTICLE 1	RECOGNITION	4
ARTICLE 2	DEFINITIONS	4
ARTICLE 3	MANAGEMENT RIGHTS	4
ARTICLE 4	EMPLOYEE RIGHTS AND REPRESENTATION	5
ARTICLE 5	NON-DISCRIMINATION	6
ARTICLE 6	HIRING PRACTICES AND PROMOTIONS	6
ARTICLE 7	DISCIPLINE	7
ARTICLE 8	GRIEVANCE AND ARBITRATION	8
ARTICLE 9	PERSONNEL RECORDS	9
ARTICLE 10	STAND-BY SCHEDULES	10
ARTICLE 11	OVERTIME	10
ARTICLE 12	HOLIDAYS	10
ARTICLE 13	BEREAVEMENT LEAVE	11
ARTICLE 14	COURT TIME	11
ARTICLE 15	MILITARY RESERVE	11
ARTICLE 16	LEAVE OF ABSENCE	12
ARTICLE 17	MEDICAL LEAVE	12
ARTICLE 18	INCENTIVE PAY	12
ARTICLE 18A	LONGEVITY	13
ARTICLE 19	INSURANCE	13
ARTICLE 20	ON THE JOB INJURIES	13
ARTICLE 21	CLOTHING, GEAR AND UNIFORMS	14
ARTICLE 22	EMPLOYEE ASSISTANCE PROGRAM	15
ARTICLE 23	VACCINATIONS	15
ARTICLE 24	TRAINING AND RECERTIFICATION	15
ARTICLE 25	ON CALL FIREFIGHTER/PARAMEDIC	17
ARTICLE 26	SQUAD STAND-BY PAY	17
ARTICLE 27	HOSPITAL TRANSPORTS	17
ARTICLE 28	CALL DURATION	17
ARTICLE 29	CALL MINIMUMS	17
ARTICLE 30	USE OF TOWN BUILDINGS	18
ARTICLE 31	VEHICLE USE	18
ARTICLE 32	WAGES	18
ARTICLE 33	MISCELLANEOUS	19
ARTICLE 34	AGENCY SERVICE FEE	19

ARTICLE 35	UNION SECURITY CLAUSE	19
ARTICLE 36	UNION BUSINESS LEAVE	20
ARTICLE 37	STABILITY OF AGREEMENT	20
ARTICLE 38	NO STRIKES	20
ARTICLE 39	DURATION OF AGREEMENT	20
APPENDIX A	HOURLY WAGES-CURRENT STAFF	21
	HOURLY WAGES - NEW HIRES	21
	CERTIFICATION STIPENDS	21

ARTICLE 1: RECOGNITION

The Town of Wellfleet (the "Town") hereby recognizes the Wellfleet Employees Association (the "Union") as the sole and exclusive bargaining agent for the purpose of collective bargaining with respect to wages, hours and other conditions of employment for all regular call fire fighters within the Town and excluding all other confidential, managerial, casual, and other employees of the Town.

## ARTICLE 2: DEFINITIONS

Employee: A regular call firefighter.

Department Head: The Fire Chief or his/her designee.

Department: The Wellfleet Fire Department.

Continuous Employment: Uninterrupted employment except for authorized leaves of absence. If an employee returns to active status as a call firefighter with the town within five years of the date of termination of employment, that employee will be entitled to reinstatement of benefits with credit for previous time worked.

Disciplinary Action: Any personnel action resulting in a written warning, suspension, demotion, or termination.

Regular Call Firefighter: A person in the service of the Department who is trained to the level of a First Responder or higher and who regularly serves on an overnight standby group or who responds to an average minimum of five (5) of toned calls per month that are toned to all home receivers. Participation rates will be based on a rolling 12 month period. A call firefighter who falls below the minimum participation rate in any month will have three (3) months to increase his/her participation rates to the minimum level.

## ARTICLE 3: MANAGEMENT RIGHTS

Subsequent to the execution of this contract, the Town will continue to retain, whether exercised or not, all of the rights, power and authority it currently exercises under the General Laws of the Commonwealth of Massachusetts and the Wellfleet Charter to solely manage the affairs of the Town and direct its workforce, except to the extent that such rights, power and authority have been abridged, limited, or relinquished by the terms and provisions of this Agreement. By way of example, but not limitation, management retains the following rights consistent with G.L. c. 150E:

- to determine the mission, budget, and policy of the Town and its departments;
- to determine the organization of the Town and its departments, the number of employees, the work functions, and the technology of performing them;
- to determine the numbers, types, and grades, of positions or employees assigned to an organizational unit, work project, or to any location, task, vehicle, building, station, or facility
- to determine the methods, means, and personnel by which the Town's operations are carried out;

- to manage and direct employees of the Town and to discipline employees;
- to maintain and improve orderly procedures and the efficiency of operations;
- to lay off employees in the event of lack of work, funds, or under conditions where management believes that continuation of such work would be less efficient, less productive, or less economical;
- to assign employees to staff functions from time to time as the Town determines appropriate
- to take whatever actions may be necessary to carry out its responsibilities in situations of emergency
- to enforce existing rules and regulations for the governance of the Town and its departments, and to add to or modify such regulations as it deems appropriate.

## ARTICLE 4: EMPLOYEE RIGHTS AND REPRESENTATION

### Section 1.

The Town agrees not to discharge, discriminate, interfere with, restrain or coerce any employee because of his/her lawful exercise of the rights set forth in Section 2 of Chapter 150E of the General Laws.

### Section 2.

The Town agrees that it will not discriminate against, interfere with or coerce against any employee because such employee gives testimony, takes part in grievance procedures or hearings, negotiations or conferences for or on behalf of the Union or any employee.

### Section 3.

Employees are free to become or refrain from becoming members of the Union. Notwithstanding membership in the Union, the Union agrees to represent fully all members of the bargaining unit.

### Section 4.

In the event of a conflict between any provisions of this agreement and any Personnel Ordinance, Bylaw, Rule or Regulation of the Town, the terms of the collective bargaining agreement shall prevail.

### Section 5 — Notice to Union

The Town shall make every effort to submit written notice to the Union with the name, job title and the effective date of actions affecting employees as follows:

1. Appointment of new employee
2. Promotion
3. Suspension
4. Termination by type (retirement, disability, involuntary with cause)
5. Authorized leave of absence of more than one (1) month

## ARTICLE 5: NON-DISCRIMINATION

The Town and the Union agree that they will not discriminate against any employee on the basis of race, creed, color, national or ethnic origin, gender, sexual preference, age, religion or marital status, political affiliation or activity, and membership or non-membership in the Union.

## ARTICLE 6: HIRING PRACTICES AND PROMOTIONS

### Section 1. Postings, Hiring Practices and Probation

When a promotional vacancy exists that the Town decides to fill, a notice will be posted in the main Fire Station for a period of fourteen (14) calendar days prior to the application deadline. Internal posting of the notice shall be the responsibility of the Union. The job posting shall include the job title, salary grade, a description of duties, the requisite qualifications for the position, the last date for filing applications and other relevant and pertinent information.

New employees shall be placed on probationary employment status for one year following their appointment as a call firefighter. During this probationary period, an employee may be terminated with or without cause. This period may be extended upon agreement between the Union and the Town. An employee terminated during the probationary period is not entitled to file a grievance; termination with notice is all that is required.

All new employees must submit to and pass a pre-employment physical examination. The Town will arrange and pay for the examination.

### Section 2. Promotion and Seniority Defined

- a) A promotion shall mean advancement to a higher grade
- b) Seniority shall mean the length of continuous active service as a call fire fighter with the Town.

### Section 3. Selection

The Town of Wellfleet is committed to a policy of hiring and promoting from within whenever possible. While selection for appointments and promotions shall be based on qualifications, seniority shall also be considered as a factor. In selecting among equally qualified applicants for promotions, employees with the greatest seniority shall be given preference over similarly qualified employees with lesser seniority.

## ARTICLE 7: DISCIPLINE POLICY



Employees may be disciplined for cause, including but not limited to: unsatisfactory job performance or attendance, and violation of Town policies or regulations. The following steps shall be taken in the event that disciplinary action is deemed necessary:

- 1) Oral Reprimand — the Fire Chief or an immediate supervisor may issue an oral warning to an employee. An oral reprimand shall be noted in the employee's personnel file.
- 2) Written Reprimand — the Fire Chief may issue a written warning. A copy of the written warning shall be placed in the employee's personnel file and carry a specified period in which the behavior shall be improved.
- 3) Suspension for cause – an employee may be suspended for up to five days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension and the date the employee will return to work.
- 4) Suspension — long term. An employee may be suspended for up to ten days without pay with just cause. Suspension may be in lieu of oral reprimand and written reprimand and may be effective immediately. Within 48 hours of the effective date of suspension, the employee will be provided with a written notice stating the reason for it, the length of the suspension and the date the employee will return to work.
- 5) Discharge - an employee may be discharged for just cause. The Fire Chief shall provide the employee with a written notice of discharge stating the reason for it and the effective date of the discharge.

The Town and Union acknowledge that application of the progressive discipline steps outlined above may not be appropriate in all instances. Based on the seriousness of the employee's misconduct, it is understood that the Town may take disciplinary action, up to and including termination, without proceeding through these disciplinary steps. It is also understood that it may be appropriate under some circumstances to impose a lesser form of discipline than is called for under the disciplinary steps.

#### Employee rights

Employees, other than probationary employees, have the right to challenge disciplinary action as it arises and to request a plan for remediation, if warranted. All disciplinary action is subject to grievance and arbitration procedures as set forth in this agreement.

### ARTICLE 8: GRIEVANCE AND ARBITRATION PROCEDURES

The parties recognize that it is in the best interest of effective and harmonious performance of duties and responsibilities for prompt and equitable disposition of any grievance at the lowest organizational level possible under procedures of maximum informality and flexibility. All grievances, as defined below, shall be processed in accordance with the following procedure.

Grievance defined: A grievance shall be defined as a dispute over the interpretation or application of the express terms of this Agreement.

Step 1. An employee, other than a probationary employee, or the Union may take up a grievance with the Fire Chief or his/her designee within 14 calendar days of the occurrence of the event giving rise to the grievance in an attempt to resolve the grievance.

Step 2. If issues are not resolved in Step 1, the employee or the Union, may submit a grievance in writing to the Town Administrator or his/her designee, within 14 calendar days after the occurrence of the event giving rise to the grievance. The grievance shall contain:

1. Name and classification of the employee
2. Nature of the grievance
3. Steps taken to resolve the grievance informally
4. Requested remedy
5. Signature of the employee or employees involved.

The Town Administrator shall have 14 calendar days to act on the grievance and his/her answer shall be in writing. During this 14-day period, the Town Administrator or his/her designee may meet with the parties involved to discuss and try to resolve the grievance.

Step 3. If the employee is not satisfied with the answer given in Step 2, the grievance may be submitted to the Board of Selectmen within 14 calendar days after the answer in Step 2. The Board of Selectmen shall consider it as soon as possible and shall give its reply in writing within 30 calendar days after receipt of the grievance.

Termination or Discharge. In the event of a termination or discharge (following the probationary period) an employee may submit a grievance at Step 3 within 10 working days of the written notice of the termination or discharge.

Arbitration. If the grievance is not resolved by the answer of the Board of Selectmen, as provided above, the Union may within 21 calendar days after such answer, upon written notice given to the Board of Selectmen, submit the grievance to arbitration in accordance with the rules of the American Arbitration Association. The arbitrator shall render his/her decision based solely upon the facts, evidence and contentions as presented by the parties during the arbitration proceedings and shall be governed by the following:

1. The decision of the arbitrator shall be final and binding upon the parties hereto except for review and confirmation as provided by Chapter 150C of the General Laws.
2. The expense of the arbitrator's services and the proceedings shall be borne equally by the parties involved.
3. The arbitrator shall be without power or authority to make any decision or award that violates the common law or statutory law of the Commonwealth or any rules and regulations promulgated pursuant thereto.
4. The arbitrator shall be without power to add or to subtract from the terms of the Agreement.
5. The arbitrator shall be without power or authority to render an award or decision concerning any matter that is excluded from the Grievance and Arbitration Procedure of this Agreement.

Time Limits. If the Town does not issue a written response to a grievance within the time provided in the agreement, it shall be considered a denial of the grievance and the Union or the employee may proceed to the next step of the grievance procedure. If the Union fails to timely file a grievance at step I, or fails to timely process a grievance at any step of the grievance procedure after a written decision has been issued, the grievance shall be waived with prejudice. The filing deadlines may be extended by mutual written agreement of the parties.

Settlement Authority. Although the parties agree that it may be mutually beneficial to attempt to resolve their disputes at the earliest stages of the grievance process, the resolution of any grievance prior to Step IV is subject to the Town Administrator's approval and absent such approval, the disposition shall not be binding on the Town.

#### ARTICLE 9: PERSONNEL RECORDS

An employee may review his or her personnel record during the regular business hours within five business days of his or her request and may obtain a copy of his or her personnel file within five business days of the submission of a written request to the office of the Town Administrator. Personnel records shall be defined in accordance with G.L. c. 149 §52C. No information from an employee's personnel record, other than a simple verification of employment, shall be released without the written consent of the employee to the extent allowed by law.

An employee shall have the right to place a written reply in his/her file to all complaints, reprimands or any other material derogatory or disciplinary in nature, and have it attached to said material. The employee will be shown such material to review and initial prior to its being placed in the file. The purpose of the initials is not to imply acceptance of said material but only to indicate that the employee has reviewed the information.

Where there is disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the Town and the employee. If an agreement is not reached, the employee may submit a written statement explaining his/her position, which shall thereupon be contained therein and shall become a part of the employee's personnel record. The statement shall be included whenever information is sent to a third party, as long as the original material responded to is retained.

#### ARTICLE 10: STAND-BY SCHEDULES

The Town must provide written notice at least fourteen (14) calendar days in advance of changing an employee's regular stand-by schedule.

#### ARTICLE 11: OVERTIME

Employees who work in excess of eight (8) hours within a twenty-four (24) hour period shall be compensated at the rate of time and one half for time worked in excess of eight hours. Group standby hours and summer shift hours are not included in the eight hour minimum.

#### ARTICLE 12: HOLIDAYS

Any employee who is called out or fills a department or private detail on one of the following holidays will be compensated at the rate of double time.

- New Year's Day
- Martin Luther King Day
- President's Day
- Patriots Day
- Memorial Day
- Juneteenth
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Friday after Thanksgiving
- Veterans Day
- Christmas Day

#### ARTICLE 13: BEREAVEMENT LEAVE

In the event of the death occurring in the immediate family of an employee, s/he shall be granted bereavement leave without loss of pay up to a maximum of two (2) regular stand-by shifts. For the purpose of this section, "immediate family" shall be spouse or domestic partner, child or a stepchild, parents, stepparents, parents-in-law, grandparents, grandchildren, brother, sister, stepbrother and stepsister.

The Town Administrator, upon recommendation of the Fire Chief, may grant extension of bereavement leave without loss of pay under special circumstances, or may grant exceptions to relatives listed above.

#### ARTICLE 14: COURT TIME

Employees, who are required to attend court in connection with their duties as call firefighters, shall be paid at the rate of time and one half their hourly rate of pay from the time the employee is

required to report to the Courthouse to the time s/he is dismissed, with a minimum of three hours to be paid. Employees will be reimbursed for mileage from their home to the assigned court at the prevailing IRS rate. In no event shall this provision apply to an employee's attendance in any action in which the Town is a defendant in the action, unless the employee is called as a witness on behalf of the Town.

#### ARTICLE 15: MILITARY RESERVE

Any employee who is a member of the National Guard or other military reserves and who is required to fulfill his/her military duty obligation by a tour of active duty, shall upon application be paid the difference, if any, between the weekly compensation received from military pay, including allowances for meals and quarters, and the employee's average weekly pay based on their most recent 52 weeks of work. This is limited to a period not to exceed three (3) weeks per fiscal year.

If the employee's National Guard or Reserve Unit is activated into federal service, the employee will be granted a leave of absence without pay. However, upon deactivation from such federal service, the employee will be entitled to reinstatement to his/her former position with the town, without loss of seniority for time spent in active service.

#### ARTICLE 16: LEAVE OF ABSENCE / VACATION

Employees, after twelve (12) months of employment, may for good and sufficient reason and with approval of the supervisor/department head and the Town Administrator be granted a leave of absence without pay. Group insurance may be continued as provided in the contract. One hundred percent (100%) of premium expenses shall be paid by the employee.

##### Vacation

Each call member will be allotted "call nights" of vacation off per fiscal year; a call night will consist of a night from 1800 — 0700. Call members shall not be docked pay for the inability to cover their shift due to a lack of call members. Time off must be used as a full shift. Prior to using this benefit, call members must try to swap the shift with another member using the CrewSense program.

<u>Years of Service</u>	<u>Call Nights Allowed</u>
Less than a year	0
1 year but less than 5	2
6 years but less than 10	4
More than 10 years	6

**ARTICLE 17: MEDICAL LEAVE**

Leave for serious illness in an employee's immediate family, giving birth or a birth in an employee's immediate family shall be taken in accordance with the Family and Medical Leave Act (FMLA) subject to the approval of the Department Head and Town Administrator. Such approval shall not be unreasonably denied.

**ARTICLE 18: INCENTIVE PAY**

Regular Call Firefighters shall receive additional pay for responding to emergency calls according to the following schedule:

<u>Incentive Pay</u>	<u>Number of Responses</u>
\$300	25 - 50
\$400	51 - 75
\$500	76 - 100
\$600	101 - 125
\$750	126 - 150
\$1000	151 and above

Incentive pay rates will be based on the total number of toned calls an employee responds to during the period of July 1 through June 30<sup>th</sup> of each year and incentive payments will be made in August of each year. Group stand-by calls will not be included in the total number of responses.

**ARTICLE 18A: LONGEVITY**

All regular Call Firefighters shall receive a longevity bonus, based on anniversary date, according to the following schedule:

\$200 after five (5) years of continuous service	
An additional \$25 per year	Years 6-10
\$400 after ten (10) years of continuous service	
\$50 per year	Years 11-15
\$50 per year	Years 16-20
\$50 per year	Years 21 and over

The longevity bonus shall be paid on the first payroll following the anniversary date to those who qualify by length of continuous service.

After ten (10) years of continuous employment, any employee who terminates employment with the town and is eligible for longevity shall receive longevity payment for any time earned up to said date of termination of employment. Earned bonus will be paid at the time of termination and shall be prorated if termination date does not coincide with the anniversary date.

Upon the death of an employee who is eligible for a longevity bonus under this article, payment shall be made to his/her estate.

## ARTICLE 19: INSURANCE

### Section 1 — Health

Employees meeting the applicable eligibility requirements as determined by the Town may elect to participate in the Town's group health insurance program and shall be responsible for the full cost of premium.

### Section 2 — Accidental Death & Disability

The Town will provide at no cost to employees, a \$75,000 accidental death & disability insurance policy.

## ARTICLE 20: ON-THE-JOB INJURIES

Employees are required to report any on-the-job injury immediately, and in no case more than 24 hours after the incident occurs. Where the employee has been exposed to a hazardous material and or a communicable virus or disease, such notice shall be given within 24 hours after the employee becomes aware of the exposure. If, in the opinion of a qualified physician, the injury or exposure results in the inability of the employee to perform his/her regular job, the Town shall pay the employee the rate equal to the lowest paid full-time firefighter until a qualified physician determines that the employee is ready to return to his/her regular job. In all cases, it shall be the employee's responsibility to provide written documentation from a qualified physician.

If the Town disputes the findings of the employee's physician, the Town can send the employee to a physician of their choosing for a second opinion at the Town's expense. If there is a disagreement between physicians, there will be a third and final opinion by a mutually agreed upon physician paid for equally by Town and employee.

If an employee is ready to return to his/her regular job but, in the opinion of a qualified physician, in consultation with the Fire Chief or his/her designee, is not ready to return to call firefighting duties, the employee shall receive 60% of his/her previous service years' average annual call firefighter wages until a qualified physician, in consultation with the Fire Chief or his/her designee, determines that the employee is ready to resume call firefighting duties.

## ARTICLE 21: CLOTHING, GEAR AND UNIFORMS

### Section 1- Call Firefighter Clothing

- a) The Town agrees to supply each regular call firefighter with the following items in the style required by the department: a) The Town agrees to supply each regular call firefighter with the following items in the style required by the department:

2 blue embroidered t-shirts  
1 red embroidered t-shirt  
2 5.11 dress trousers  
2 5.11 blue embroidered polo shirts,  
1 5.11 red embroidered polo shirt  
2 Reubens, 1 blue, 1 red; embroidered

## Section 2 — Call-Firefighter Protective Gear

The Town shall issue and replace if no longer fit for service, turn-out gear meeting current N.F.P.A. standards as follows:

1 Fire turnout coat  
1 Helmet  
1 Pair work gloves made of fire retardant materials  
1 Pair Fire Turnout Trousers with leather boots  
1 Hood  
1 Brush fire gear  
1 flashlight  
1 Gear Bag

Additionally, employees with a Firefighter 1/11 or higher rating will receive all safety equipment issued by the town to full-time firefighters including but not limited to:

- 1 SCBA (Scott) air mask with speaker and mask bag
- 1 Life Safety escape rope

The Town agrees to a maximum payout of up to \$250.00 for all reasonable requests to replace clothing and protective gear, eyeglasses, watches, and cell phones of a member of the bargaining unit which may be damaged or destroyed in the line of said employee's duty while on duty or while said employee may be responding to, or returning from, a call to duty.

All protective gear remains the property of the Town and shall be returned to the Town in good condition, reasonable wear and tear excluded, within 2 weeks after the employee's employment with the Town ends.

## ARTICLE 22: EMPLOYEE ASSISTANCE PROGRAM

All employees shall have full rights and privileges to the Employee Assistance Program provided by the Town.

## ARTICLE 23: VACCINATIONS



The Town will make available to each employee a proper vaccination against Hepatitis B, Hepatitis A and Lyme disease. The Town shall request Cape Cod Hospital to report to the Fire Department within one (1) hour after discovery; any time that a patient brought in by ambulance has an infectious disease.

## 24: TRAINING AND RE-CERTIFICATION

### Section 1. Class approval, tuition and expenses

Employees will be reimbursed tuition costs for all classes with the prior written approval of the Chief. Training time for classes that have been approved by the Fire Chief or his designee shall be paid at the hourly rate. Employees attending courses outside of Wellfleet will be allowed the use of a town vehicle or will be paid the prevailing IRS rate per mile, for travel between the employee's home and the class site. Employees shall be required to carpool to training classes whenever possible.

When an overnight stay is required and is authorized by the Fire Chief, the reasonable cost of food and lodging will be reimbursed.

### Section 2. New Certification

Subject to the prior written approval of the Chief, and upon certification, employees attending Firefighter 1/11 certification classes will be paid for mileage at the prevailing IRS rate per mile. Upon proof of certification, employees will be reimbursed for the costs of tuition, fees, and for required text books and training materials. All course materials will become the property of the student. Employees shall be required to carpool to training classes whenever possible. Call firefighters who attend and complete the Fire Fighter Certification class will receive \$600 per year for five (5) years payable upon each anniversary date of certification provided that said employee continues to remain employed by the Town as a Call Fire Fighter on each respective anniversary date.

### Section 3. Recertification

Employees attending EMT or Paramedic DOT recertification class, ACLS, PALS, and PHTLS will be paid their hourly rate for class and travel time to and from classes and required examination sites. Upon successful recertification, the employee will be reimbursed the cost of required textbooks and training materials. These materials will become the property of the student. Tuition reimbursement will be paid upon proof of recertification.

Employees are required to take EMT-DOT and Paramedic recertification classes within the Town or an adjoining town if they are offered. Employees who choose to take EMT and DOT recertification classes at other locations will be paid for class time only and will not be reimbursed for travel time or mileage.

The Town shall reimburse the fees for State and National Recertification of EMTs and Paramedics, including DOT and ALS classes, and any other testing that may be required.

#### Section 4. Training

The Fire Chief will determine what in-house training, classes or drills are necessary for each job title. All required trainings will be paid at time-and-one-half.

#### Section 5. Seminar Days

Subject to the prior written approval of the Fire Chief or his/her designee, members of the call department shall have the opportunity to take continuing education classes/seminars to further their knowledge and training in subjects related to the department. These classes could include but not be limited to Barnstable Fire Academy Classes and EMS related courses and seminars. Each member will have a minimum allowance of \$700 to be used for this training. This can be used for but does not limit the Town from paying in full for Paramedic and/or Firefighter 1/11 class as stated in Section 2. This is above and beyond the training and drills required by the department and DOT recertification. This allowance can be used for tuition, fees, textbooks and training materials. It will also cover class time and travel time at the member's hourly rate and the prevailing rate per mile for travel in the member's vehicle and meal allowance. If the member chooses not to use his/her education allowance it will revert to the general WFD budget. This allowance will not roll over from year to year.

#### ARTICLE 25: ON CALL FIREFIGHTER/PARAMEDIC

Any Call Firefighter who agrees to be available on-call beyond his/her group nights, with authorization of the Fire Chief or his designee, shall be paid at the rate of \$ 14.00 per hour.

#### ARTICLE 26: SQUAD STAND-BY PAY - CALL FIREFIGHTERS

Employees who agree to be on a standby group shall be compensated as follows: Stipend Pay of \$1400.00 shall be paid quarterly to each member who satisfies the obligation of filling one "on call" position on a three-squad rotation schedule. Should the obligation change to fill an on call position on a four-squad rotation or equivalent, the resultant decrease shall be reflected in a stipend pay so that \$1100.00 shall be paid quarterly to each member.

#### ARTICLE 27: HOSPITAL TRANSPORTS - CALL FIREFIGHTERS

Employees who make ambulance transports to the hospital or cover the station while the ambulance travels to the hospital shall be paid hourly with a 4 hour minimum on transports. Once the 4 hour minimum has been exceeded, employee will be paid for each additional hour.

## ARTICLE 28: CALL DURATION - CALL FIREFIGHTERS

For the purpose of establishing payroll hours, a call will begin at the time it is toned out and will continue until the equipment is placed back in service at the station. Time for employees who do not return with the apparatus, or are released from the scene by command before the call is terminated, will end at the time they are cleared from the call.

## ARTICLE 29: CALL MINIMUMS

All calls — employees shall receive a minimum of four (4) hours of pay. Once the four (4) hour minimum has been reached, the employee will receive a full hour's pay. This shall repeat until the employee is again released from the call.

## ARTICLE 30: USE OF TOWN BUILDINGS

The Town will allow the Union to use meeting rooms for Union business meetings, provided that the Union has obtained permission for the use of the room from the Town, and that Town operations are not adversely affected by such meetings. Requests for use of meeting room space shall not be unreasonably withheld or denied. The Town will allow the Union to use department members' "mail boxes" for exchange of information.

## ARTICLE 31: VEHICLE USE

### Section 1. Mileage

Employees required to use their private vehicle for official town business shall be compensated at the prevailing IRS rate.

### Section 2. Use of Town Vehicles

An employee may be allowed the use of a Town vehicle for business related purposes with the prior written authorization of the Fire Chief.

## ARTICLE 32: WAGES

Effective July 1, 2023 wages shall be increased by 6% for all WEA Unit C personnel.

Effective July 1, 2024 wages shall be increased by 6.25% for all WEA Unit C personnel.

Effective July 1, 2025 wages shall be increased by 6.25% for all WEA Unit C personnel.

Employees assigned outside detail work by the Chief shall be paid at the rates listed below for all such detail work. The employee shall be reimbursed when the Town receives the money from the sponsor. Detail work shall be offered on a rotational basis. Details shall be paid for four (4) hours minimum. This paragraph would not apply to Town funded details.

FY2024        \$65 per hour

FY2025        \$70 per hour

FY2026        \$80 per hour

The Salary Schedule is attached as Schedule A.

Paramedic Certification. An EMT certified employee who becomes certified to the level of Paramedic shall receive a base hourly wage increase of 5% effective with the first pay period after submitting the new State Certification.

Loss of Certification. A Paramedic certified employee who drops a certification level will have their hourly rate decreased by 5% effective with the first pay period after losing the certification.

New hires. New hires shall be placed at an hourly wage rate appropriate for their certification and experience level as determined by the Fire Chief.

#### ARTICLE 33: MISCELLANEOUS

The failure of the Town or the Union to insist, in any one or more incidents, upon performance of any of the terms or conditions of this Agreement, shall not be considered as a waiver or relinquishment of the right of the Town or the Union to future performance of any such term or condition. The obligations of the Town and the Union to such future performance shall continue in full force and effect.

If any provision of this Agreement or any application of this Agreement to any employee covered by the terms of this Agreement shall be found contrary to law by a Court of competent and final jurisdiction, such provision or application shall have effect only to the extent permitted by law, and all other provisions or applications of this Agreement shall continue in full force and effect.

#### ARTICLE 34: AGENCY SERVICE FEE

In accordance with the provisions of General Laws, Chapter 150E, Section 12 as amended, and the Rules and Regulations of the Massachusetts Labor Relations Commission, the Town agrees that with the effective date of this Agreement or 30 days following the commencement of employment, whichever is later, each employee who elects not to join or maintain membership in the Union shall

be required, as a condition of employment, to pay a fee to the Union in the amount that is authorized by Section 12, Chapter 150E. Said fee for the term of this contract is in accordance with Appendix "E". The Union agrees to indemnify the Town for damages or costs for complying with this article.

#### ARTICLE 35: UNION SECURITY CLAUSE

Pursuant to the provisions of general Laws, Chapter 180, Section 17A, Union dues shall be deducted by the Town from the salary of each employee who voluntarily executes and remits to the Town a form of authorization for payroll deduction. Dues are to be paid in accordance with Appendix "E". The Union agrees to indemnify the Town for damages or costs for complying with this article.

Such authorization may be withdrawn by the employee, giving at least 30 days written notice to the Town, and by filing a copy thereof with the Treasurer of the Union. Transmittal of said dues will be made to the Union Treasurer within seven (7) calendar days after the month in which the dues are deducted.

#### ARTICLE 36: UNION BUSINESS LEAVE

The Union president or designee shall have available reasonable time with pay during their regular working hours to attend grievance meetings and/or hearings with the Town or to attend grievance arbitration. Additionally, members of the negotiation team shall have available reasonable time to attend bargaining sessions for their bargaining unit.

#### ARTICLE 37: STABILITY OF AGREEMENT

No amendment, alteration or variation of the terms and provisions of this Agreement shall bind the parties hereto, unless made and executed in writing by parties hereto. Should the Union allege a change in the terms or conditions of employment inconsistent with G.L. c. 150E, it shall have fifteen (15) days from the date of any alleged change to request bargaining over such alleged change.

#### ARTICLE 38: NO STRIKES

It is understood and agreed that the services performed by the Town employees included in this Agreement are essential to public health, safety and common welfare. Therefore, the Union agrees on behalf of its members that it will not authorize, instigate aid, condone, or engage in any strike, work stoppage or other action at any time, including upon termination of this Agreement, which will interrupt or interfere with the said service performed by the Town. No employee shall cause or take part in any strike, work stoppage or slowdown.

#### ARTICLE 39: DURATION OF AGREEMENT

This agreement shall enter into effect on July 1, 2023, and shall remain in effect up to and including June 30, 2026 or until a successor agreement is negotiated. Unless otherwise provided, all rights

and benefits accruing to the members of the Union within the contract are retroactive to the date of signing by the Union and the Town.

## APPENDIX A

### SCHEDULE A – HOURLY WAGES – CURRENT STAFF

Name	FY23	FY24	FY25	FY26
		6%	6.25%	6.25%
William Grozier	\$ 41.07	\$ 43.53	\$ 46.26	\$ 49.15
Paul O'Neill	\$ 30.71	\$ 32.55	\$ 34.59	\$ 36.75
Wendy Willis	\$ 30.71	\$ 32.55	\$ 34.59	\$ 36.75
Ryan Komich	\$ 24.80	\$ 26.29	\$ 27.93	\$ 29.68

### SCHEDULE B – HOURLY WAGES – NEW HIRES

POSITION	FY23	FY24	FY25	FY26
		6%	6.25%	6.25%
New Hire - 1st Responder	\$ 19.71	\$ 20.89	\$ 22.20	\$ 23.59
New Hire - EMT	\$ 24.80	\$ 26.29	\$ 27.93	\$ 29.68
New Hire - Paramedic	\$ 27.12	\$ 28.75	\$ 30.54	\$ 32.45

### CERTIFICATION STIPENDS

	FY24	FY25	FY26
EMT	\$1600.00	\$1800.00	\$2000.00
EMT – Advanced	\$2400.00	\$2600.00	\$2800.00
Paramedic	\$3000.00	\$3200.00	\$3400.00
Firefighter	\$ 750.00	\$ 750.00	\$ 750.00

Certification stipends will be paid the first pay period in December annually.

**SCHEDULE B – HOURLY WAGES – NEW HIRES**

<b>POSITION</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
		<b>6%</b>	<b>6.25%</b>	<b>6.25%</b>
New Hire - 1st Responder	\$19.71	\$20.89	\$22.20	\$23.59
New Hire - EMT	\$24.80	\$26.29	\$27.93	\$29.68
New Hire - Paramedic	\$27.12	\$28.75	\$30.54	\$32.45

**CERTIFICATION STIPENDS**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
EMT	\$1600.00	\$1800.00	\$2000.00
EMT – Advanced	\$2400.00	\$2600.00	\$2800.00
Paramedic	\$3000.00	\$3200.00	\$3400.00
Firefighter	\$ 750.00	\$ 750.00	\$ 750.00

Certification stipends will be paid the first pay period in December annually.



IN WITNESS WHEREOF, the Town and Union have executed this agreement as of the \_\_\_th day of June, 2023.

TOWN OF WELLFLEET  
BOARD OF SELECTMEN

WELLFLEET EMPLOYEES ASSOCIATION

\_\_\_\_\_  
Ryan Curley, Chair

\_\_\_\_\_  
Nancy Vail, President

\_\_\_\_\_  
Barbara Carboni

\_\_\_\_\_  
Michael DeVasto

—

\_\_\_\_\_  
Kathleen Bacon

\_\_\_\_\_  
John Wolf



# SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 18, 2023

III

## BOARD REORGANIZATION

<b>REQUESTED BY:</b>	Selectboard
<b>DESIRED ACTION:</b>	To reorganize the board
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	A motion will be made at the meeting.
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

IV

### USE OF TOWN PROPERTY

~ A ~

<b>REQUESTED BY:</b>	<b>Lee Hudson &amp; Laura Young</b>
<b>DESIRED ACTION:</b>	<b>To approve the use of Baker's Field Pavilion</b>
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b>I move to approve the use of Baker's Field Pavilion for a Celebration of Life for a long-time town employee Jane Tesson at a date to be determined with the Recreation Director for availability, the fee is to be waived do to Jane's many years of service to the town.</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY**

**TOWN OF WELLFLEET  
300 MAIN STREET  
WELLFLEET, MA 02667**

Applicant      Lee Hudson & Laura Young                      Affiliation or Group      Jane Tesson Celebration of Life

Telephone Number      207-266-9914                      Mailing Address      7 Shank Painter, Provincetown

Email address      seaweeder@live.com

Town Property to be used (include specific area) \_\_\_\_\_  
Pavillion at Baker's Field

Date(s) and hours of use:      TBD based on availabilty and caterer

Describe activity including purpose, number of persons involved, equipment to be used, parking arrangements, food/beverage service, etc. Also, please indicate if fees will be charged by applicant.

We will be holding a Celebration of the Life of Jane Tesson!

\_\_\_\_\_ This will be a catered affair with no alcohol served. The caterer will be responsible for set-up and clean-up.

Describe any Town services requested (police details, DPW assistance, etc.)

\_\_\_\_\_ We would like to know if there could be use of chairs and/or tables of any sort

NOTE TO APPLICANTS: All applications must be accompanied by a non-refundable \$50.00 processing fee. Applications must be received at least 30 days prior to the first event date to ensure that all reviews can be completed prior to the event. This application is only for permission to use Town property. Any additional licenses, such as food service permit, etc., may be required and it is the applicant's responsibility to secure the same.

Action by the Board of Selectmen:

\_\_\_\_\_ Approved as submitted.

\_\_\_\_\_ Approved with the following condition(s): \_\_\_\_\_

\_\_\_\_\_ Disapproved for following reason(s): \_\_\_\_\_

Date: \_\_\_\_\_

Processing Fee:      \$50.00

Fee: \_\_\_\_\_

(over)

**APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS**

<b>Health/Conservation Agent:</b> ok - Meredith Ballenger Comments/Conditions: Permits/Inspections needed: please waive fees	<b>Inspector of Buildings:</b> ok - Victor Staley Comments/Conditions: Permits/Inspections needed:
--	---

<b>Police Department:</b> ok - Kevin LaRocca Comments/Conditions: please waive fees	<b>Fire Department:</b> ok - Rich Pauley Comments/Conditions: please waive fees
--	--

<b>DPW:</b> ok Jay Norton Comments/Conditions: please waive fees	<b>Community Services Director:</b> ok Suzanne Thomas Comments/Conditions: please waive fees
---	---

<b>Harbormaster:</b> ok - Will Sullivan Comments/Conditions: please waive fees	<b>Shellfish:</b> ok - Nancy Cvetta Comments/Conditions: please waive fees
---	---

<b>Recreation:</b> ok - Becky Rosenberg Comments/Conditions: please waive fees	<b>Town Administrator:</b> Comments/Conditions:
---	--



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

V

---

### BUSINESS

~ A ~

<b>REQUESTED BY:</b>	<b>Dredging Task force Members</b>
<b>DESIRED ACTION:</b>	<b>To review the most recent dredging mitigation plan</b>
<b>PROPOSED MOTION:</b>	<b>If a motion is determined to be needed one will be made at the time of the meeting.</b>
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

DRAFT

## Wellfleet Harbor Dredge Mitigation Plan

Wellfleet, Massachusetts

**Submitted to:**

US Army Corps of Engineers  
New England Division  
Regulatory Division  
696 Virginia Road  
Concord, MA 01742

**Submitted by:**

Town of Wellfleet  
300 Main Street  
Wellfleet, MA 02667

GEI Consultants, Inc.  
124 Grove St, Suite 300  
Franklin, MA

July 13, 2023  
Project No. 2004486

## Mitigation Plan 33CFR 332(c) (2) though (14)

### A. Goals and Objectives:

The Town of Wellfleet has proposed the dredging of 23.8 acres of tidal mudflats along with sub and intertidal resource areas as Area 2 in project plans. It is well understood that intertidal mudflat habitat is beneficial for many reasons. Mudflats can provide nursery habitat and food supplies for larger fisheries, support bird populations and protection of coastlines through the absorption and lessening of storm forces. There are however factors that influence the functionality of a mud flat.

The compensatory mitigation plan is submitted to offset the dredging work in Wellfleet Harbor Area 2, South Mooring Field. The mitigation plan consists of enhancing a 28-acre parcel in Blackfish Creek. The Blackfish Creek area is currently designated as “open”, year-round by the shellfish regulatory authority, the Commonwealth of Massachusetts.. The designated area will be restored by placing spat on shell, placing seed oysters, placing quahogs, and placing cultch to enhance shellfish propagation which will lead to improved water quality, and increased biodiversity resulting in the successful restoration of what was formerly a very productive shellfish habitat, and will provide protection of tidal mudflat habitat.

Objective enhancement would be measured using oyster density levels of twenty-five (25) individuals/m<sup>2</sup> throughout a 28-acre area (an areal density identified in the Chesapeake Bay Oyster Metrics Workgroup). It is important to note that the Massachusetts’ Division of Marine Fisheries uses a metric of approximately six (6) oysters per square meter as an indicator of “significant oyster resource”. Over a five to seven -year period, our efforts will be to enhance this area so as to enhance oyster density with a target goal of 25 oysters/m<sup>2</sup>. An increase in oyster density has been shown, though prior work in Wellfleet, to lead to a dramatic increase in biodiversity and water quality. Water quality success would be measured in relation to the EPA’s definition of “excellent” water quality designation. Nitrogen levels will be recorded for information purposes only but will not be evaluated as a metric under the Mitigation Plan. Nitrogen levels are monitored under the Cape Cod Commission’s 208 Water Quality Plan. Biodiversity success would be measured through density and diversity of species as indicated in the attached performance standard. It is anticipated that the area would also become a resource for local shore birds, turtles, a wide variety of marine species and juvenile fish protection.

### B. Site Selection:

The proposed mitigation site is classified as mudflat habitat and has been influenced by human interaction. The proposed mitigation site is in an area that had previously been degraded due to a variety of reasons including ice damage, harvest pressure, disease, and other human influences. The proposed enhancement will positively affect areas outside of the proposed mitigation area. Restoration of shellfish populations, water quality and increased biodiversity in the restored area will have wide ranging benefits for the Wellfleet Harbor system.

The mitigation site was carefully selected, based on its location and more importantly, for its restorative capabilities to return the designated area to its former habitat - a highly productive tidal mudflat with rich shellfish beds, naturally symbiotic flora and



fauna, reduction in nuisance sedimentation and increased water quality and clarity. Each of these characteristics has been declining in the Wellfleet Harbor system over the last several decades. These factors combined with the proposed additional shellfish propagation efforts (placing spat on shell, placing seed oysters, placing quahogs, and placing cultch) and protection of oyster habitat, will lead to a restoration and enhancement of 28 acres of mudflat habitat to the overall benefit of an enhanced Harbor ecosystem, benefitting all users.

Blackfish Creek (BFC) Site 1 is the mitigation site; it is located in Blackfish Creek. Refer to Appendix A Figure A1 for location details.

**C. Site Protection Instrument:**

The proposed mitigation areas, along with all shellfishing areas in Wellfleet, are governed by MA GL Chapter 130. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State and regulated under MA DMF Shellfish Planting Guidelines.

The mitigation area in Blackfish Creek is designated as protected by the MA ACEC program (see Figure A1). This area is therefore subjected to closer scrutiny to avoid or minimize adverse environmental impacts by local and state agencies (<https://www.mass.gov/service-details/acec-program-overview>). The area will be indicated as a resource protection area on official shellfish maps, with local signage and routine patrol 364 days a year at each low tide during daylight.

The Town further agrees not to disturb the mitigation area through addition of a mooring basin, piers, community docks or other such development. The mitigation area will be marked on Town shellfish maps. Uses of the mitigation area would be reserved for shellfishing and other secondary uses as listed in the Longterm Management Plan (Appendix C). Due to Division of Marine Fisheries regulations, the area cannot be closed to harvest for longer than a three-consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations.

**D. Baseline Conditions:**

A pristine mudflat in an area of little human development, lower impact to the sediment, little or no point source pollution, and no harvest pressure would be considered a pristine mudflat habitat with high functionality and value to the ecosystem.

The mudflat at Wellfleet Harbor and Shirt Tail Point has been consistently influenced by human use since 1644. The first modern era occurrence established the existing mooring field in 1955, although the area was used as a harbor prior to that time. The area around the harbor is well developed with housing surrounding much of the coastline, especially to the north, east and south. This leads to significant sources of run off and non-point source pollution as well as other point source contaminants that may occur less frequently. Equally significant is the location of the Town mooring docks, boat ramp, refueling station and other commercial buildings all located immediately to the north of the Area 2 dredge site. This area served as the major docking and refueling station for the Town prior to 1985. While there has not been a significant spill or leak in this time it is expected that the higher rate of human occupation of these areas contributes to the degradation of the mud flat habitat. State records dating from 1937 show the constant use of this area with over 25 completed projects including shoreline protection, establishment of the channel and mooring field, improvements, and expansions of the fueling docks and

parking lots and establishment of docks and piers adjacent to the Area 2 mooring basin and a large jetty protecting the Harbor Basin. The mooring basin itself is not an undisturbed mudflat and the sediments are not like mudflat but have been characterized as “black custard” and not capable of supporting shellfish. Since 1957, approximately 340 ground tackle and mooring lines/buoys have been cored into the bottom in the spring and dragged through the sediments to the shore each fall to be recovered. This activity completely disturbs the area each year. Recently, due to a lack of dredging, approximately 80 moorings have been lost due to an inability to access them due to a lack of water at low tide or so restricted a tidal window as to make them undesirable. This has resulted in a loss of approximately \$80,000/year in marina related revenue based on data from Wellfleet Marine Corporation.

The proposed compensatory mitigation project site is considered mudflat habitat and has been mapped by MA Mapper as shellfish suitability area for American Oysters (*Crassostrea virginica*).

The mitigation area once was a historically productive mudflat used consistently for shellfishing. The western area of Blackfish Creek, many decades ago, was highly productive but in more recent decades was so reduced in oyster population and productivity that it qualified for licensing private shellfish grants (less than six oysters per square meter). In addition, the area immediately west of the proposed mitigation area was highly productive and was a major stop on the Shellfish Department’s daily patrols during the early to mid-2000’s, but in more recent years, shellfish populations have decreased there. It appears that this reduction in productivity was due to consecutive large ice events and the Shellfish Department’s cultch program alone has not been able to bring it back. More recently, in the eastern regions of the proposed mitigation area, extremely low shellfish populations remain, and the Shellfish Department has observed very little shellfishing due to a lack of resources. Areas to be cultched currently have nitrogen reduction targets which could be improved with increased oyster populations and the in-migration of other organisms.

A baseline biological and sediment composition survey was conducted on June 22, 2023 (pre-restoration) to determine the baseline for the Blackfish Creek mitigation site. Performance metrics to be measured are included in the attached table. The full baseline survey is located in Appendix B of this document.

**E. Determination of Credits:**

The plan for restoration and enhancement of 28 acres of equivalent mudflat habitat will generate the required 7.16 mitigation credits and offset the impacts of the dredging of the Wellfleet Harbor Area 2, South Mooring Field.

**F. Mitigation Work Plan:**

The mitigation work plan proposes a multiprong approach for the enhancement of the Blackfish Creek Site in Wellfleet Harbor including:

- Placement of spat on shell.
- Placement of oyster seed.
- Placement of Taunton River quahog relay.
- Placement of cultch.

Cultch has been used for over 100 years in Wellfleet Harbor to provide substrate for larval oysters (spat) to attach. Without oysters, shell or suitable substrate, natural set, which

is uniquely abundant in Wellfleet Harbor, would otherwise die. Replacement of substrate through cultching is well established for maintaining and restoring oyster populations. The addition of cultch and subsequent sets of oysters that can grow there will improve the water quality of the area through the natural filter feeding. The cultch strips also improve biodiversity through providing substrate for other organisms to use for food or refuge.

The area would be enhanced with cultch (sea clam shell) and oyster seed from locally available resources. Cultch will be trucked from a whole sea clam processing plant to the Town Transfer Station and supplemented with oyster shell from recycling programs with restaurants and the general public. This material is properly aged then loaded by front-end loader and delivered to a custom-built cultch barge. The barge has a hopper which delivers a strip of shells approximately 4'x100' with about 6 inches of relief on the bottom. Cultch has been shown to be the ideal material for "catching a natural set" of oyster spat due to Wellfleet's significant locally spawning oyster population without using "spat on-shell" or extensive seeding which is necessary in areas where there is not a local "set".

A 28-acre parcel of mudflat habitat has been identified in Blackfish Creek (BFC), east and south of Pleasant Point (see Fig A1). This area is currently approved for shellfish propagation and harvest. A baseline biological survey was performed in BFC on June 22, 2023. The survey identified current substrate, density of oysters, and other biodiversity. Water Quality monitoring in the area is being monitored by the Center for Coastal Studies. Cultching will be conducted as described above. It is expected that restoration efforts of cultching and seed placement will take approximately 5 years to reach the desired levels of oyster density, biodiversity, and water quality improvement.

**Basic yearly timelines would be as follows:**

**Blackfish Creek 2023 (- 2029)**

June 2023 - local oyster seed will be purchased and raised on the Shellfish Department's farm.

June (2023) – shell bags will be placed in Chipman's Cove for spat settlement.

Fall 2023 - spat on shell (bags) will subsequently be transferred from Chipman's Cove to Blackfish Creek.

Fall 2023 – the 28-acre mitigation area in Blackfish Creek will be marked with signage and buoys; communication will be sent to all shellfishermen establishing the mitigation area.

May 2024 - quahog (*Mercenaria mercenaria*) relay will take place from the Taunton River into the Blackfish Creek mitigation area. (See Figure A2)

June 2024 - the oyster seed from the Shellfish Department's farm will be deployed in Blackfish Creek.

June 2024 (or June 2025, once the Chapter 91 Permit to cultch in Blackfish Creek has been received) - 10 strips of cultch will be laid in Blackfish Creek.

Areas to be cultched will be determined by Wellfleet Shellfish Department staff after walking the bottom of the area to be cultched. Staff will mark the approximate beginning and end of the cultch strips with buoys and then run the cultch barge at high tide between the two buoys.

Subsequent Years – the process shall continue as described above, utilizing:

- Placement of spat on shell.
- Placement of oyster seed.
- Placement of Taunton River quahog relay.

- Placement of cultch.

When the spat on shell is relocated from Chipman’s Cove to Blackfish Creek in October 2023, it will start the three-year closure for the Blackfish Creek area. After three years the shellfish department will evaluate the oyster density and propose an opening of a portion of the area for harvest as per MA DMF regulations that will not adversely affect the stated performance metrics.

Past season(s) enhancement will be evaluated to make adjustments before the next season (through year 4).

After year 5, if performance metrics have been met, the USACE will issue a Certificate of Compliance and the site will move into a monitoring plan only, with no active enhancement of resources. Ongoing harvest opportunities will be decided by the Shellfish Department in such a way as to ensure minimum density of oyster populations and restoration/harvest management that supports other restoration metrics.

**G. Maintenance Plan:**

The mitigation plan is predicated on increasing the oyster populations through cultching and seed placement. Over a five-year period, we expect to place approximately 125-200 tons of cultch in MA DEP Chapter 91 approved area for this purpose. Cultching and seeding the entire 28-acre area in one season is not planned as there are many factors that could negatively influence the restoration efforts. Placing all of the cultch strips and seed would leave the area susceptible to negative environmental and biological impacts. Storms or disease could spread quickly through an area that has all been recently enhanced. By enhancing smaller areas over a longer five-year time period, evaluations can be made as to the success of the enhancement, and adjustments can be made to maximize the enhancement of the mudflat habitat allowing the Town to adjust maintenance in real time, over the first 5 years.

**H. Performance Standards:**

This project will measure water quality, biodiversity, and oyster density to indicate enhancement success. Enhancement success for the following attributes is defined below for each standard. The main criteria for a certificate of compliance is oyster density based on referenceable standards. Water quality and biodiversity are additional qualitative standards that may be used to adaptively adjust oyster density, should there be difficulty in achieving the standard and are useful measures to understand the macro environment in the waterbody but not under the direct control of the project or the Town’s efforts.

Water quality: Upon construction of the project, water quality is expected to improve on the site during the 5 to 7 year monitoring period. Successful water quality is defined as an increase in targeted metrics year over year for the 5 to 7 years. Ultimately the site is expected to exceed the metrics established in the baseline and is envisioned to meet EPA’s definition of “excellent” water quality designation as further defined in 314 CMR 4.00: MASSACHUSETTS SURFACE WATER QUALITY STANDARDS. These parameters are measured by the Center for Coastal Studies as contained in Table below, except for coliform which is measured by the Massachusetts DMF. Class SA waters as defined in the standard, are required for the harvest of shellfish.

# DRAFT

Oyster density: Success for the site is defined as surviving oyster density on the total acres of the site at 25 oysters / m<sup>2</sup>. This will be measured at baseline, with a linear progression expected over the 5 to 7 years.

Biodiversity: Success for this attribute is defined as increase over the baseline, particularly in the first few years, and then leveling off. Given the transient nature of some of the species to be measured, it is understood that not all species will be found or increase year after year. Biodiversity success will be measured by overall species richness.

# DRAFT

The performance standards will be recorded utilizing these metrics:

Wellfleet Mitigation Performance Metrics Black Fish Creek Location						
Seasonal Average based upon a statistically significant sample	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
<b>Oyster Density/m2</b>						
<b>Water Quality</b>						
Temperature °C						
Salinity						
Dissolved Oxygen mg/L						
Chlorophyll ug/L						
Pheophytin ug/L						
Turbidity NTU						
Nitrate Nitrite uM						
Ammonium uM						
Orthophosphate uM						
Silicate uM						
Particulate Organic Nitrogen uM						
Particulate Organic Carbon uM						
Total Dissolved Nitrogen uM						
Total Dissolved Phosphorus uM						
Total Nitrogen uM						
Total Phosphorus uM						
Total Nitrogen TDN PON						
Coliform (Total Fecal Coliform)						
<b>Biodiversity</b>						
Amphipod (various sp)						
Anemone (various sp)						
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )						
Barnacle (various sp)						
Blue crabs ( <i>Callinectes sapidus</i> )						
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )						
Invasive green crabs ( <i>Carcinus maenas</i> )						
Mites (various sp)						
Mud Snail ( <i>Ilyanassa obsoleta</i> )						
Oyster ( <i>Crassostrea virginica</i> )						
Oyster Drill ( <i>Urosalpinx cinerea</i> )						
Polychaete (various sp)						
Purple marsh crabs ( <i>Sesarma reticulatum</i> )						
Ribbed Mussel ( <i>Geukensia demissa</i> )						
Whelk (various sp)						
Hermit Crabs ( <i>Pagurus sp.</i> )						
Horseshoe Crab ( <i>Limulus polyphemus</i> )						

Performance standards will be measured according to the above table. Metrics will include water quality indicators as well as oyster density and biodiversity. The basic conclusion is that an oyster density of 25 oysters/m<sup>2</sup> (Restoration Goals, Quantitative Metrics and Assessment Protocols for Evaluating Success on Restored Oyster Reef Sanctuaries Report of the Oyster Metrics Workgroup Submitted to the Sustainable Fisheries Goal Implementation Team of the Chesapeake Bay Program, December 2011) is considered a successful restoration and is expected to be self-sustaining. MA DMF regulations require that areas be open for a minimum of a day every three years in order to be in compliance with Massachusetts law. For the initial five years of enhancement, monitoring and reporting will take place yearly. This will include an evaluation of substrate health, including bottom relief, increased bottom structure and distribution relative to other performance goals such as biodiversity and water quality. On-going monitoring will determine if recruitment is self-sustaining. After the initial five-year work plan has achieved a target goal of 25/m<sup>2</sup>, we will evaluate future harvest opportunities and timing in order to ensure healthy oyster resources and habitat, in the context of continuing to meet our restoration goals. Harvest, productivity, disease, weather events, ice mortality and other previously unforeseen impacts will be closely monitored in relation to impacts on performance standards.

**I. Monitoring Requirements:**

The mitigation area will be monitored by a set of third-party organizations mutually agreed upon by the Town and the USACE. Reports will be compiled by the Town and submitted yearly to the USACE for review. Any potential adjustments to the work plan will be made at that time in consultation with the USACE. Water quality monitoring is conducted by the Center for Coastal Studies as part of the larger Wellfleet Harbor monitoring that is already underway.

**1) *Black Fish Creek***

An additional water quality monitoring point will be added in the Blackfish Creek mitigation area to better capture the Water Quality metrics listed above. This monitoring occurs once in February and twice a month from April – September as conducted by the Center for Coastal Studies. An improvement in water quality will be tracked through the changes in this data over the five to seven-year work period.

Oyster density is the second measure of mitigation success. Oyster density is expected to increase yearly with the laying of cultch. The laying of cultch is expected to recruit natural oyster spat within the Wellfleet Harbor system. The addition of seed oysters will also increase the density of the oyster population. The five-year goal of the project is a density of 25 oysters / m<sup>2</sup> as calculated across the entire mitigation area. Density will be measured in the early summer and in the late fall in areas where recruitment has occurred and averaged across the entire site. Density measurements shall include oysters of all sizes, including spat. This data will be reported to the USACE yearly.

Biodiversity will be measured twice yearly in the spring and fall at the stations marked on the attached map (see Figure B1). This data will be included in the yearly reporting to the USACE as shown in the above table. It is expected that the largest increase in biodiversity will be seen in the areas that have been culched where oyster reefs are established.

**J. Long-Term Management Plan:**

The Long-Term Management Plan will be managed by The Long-Term Steward of the site, which is the Town of Wellfleet. The detailed Long Term Maintenance Plan can be found in Appendix C. This Plan will be enforced to protect the environmental enhancement. In the event of a Force Majeure event leading to death of all the oysters, the Town's responsibility will be to jump start the shellfish population by using Year Two activities with respect to cultch and seed, as listed in the work plan shown above. Oyster density will be reported to the USACE in accordance with Mitigation Plan Scenarios Table (Appendix D)

The mitigation area in Blackfish Creek is designated as protected by the MA ACEC program (see Figure 2), therefore subjected to closer scrutiny to avoid or minimize adverse environmental impacts by local and state agencies (<https://www.mass.gov/service-details/acec-program-overview>). The area will be indicated as a resource protection area on official shellfish maps, with local signage and routine patrol 364 days a year at each low tide during daylight. For the first five to seven years, annual quadrat assessment by an academic or governmental institution or creditable nonprofit organization will be performed and results will be submitted to the USACE annually.

The Town agrees not to disturb the mitigation area through a mooring basin, piers or other such development. The mitigation area will be marked on Town shellfish maps. Uses of the mitigation area would be reserved for shellfishing and other secondary uses as listed in the Longterm Management Plan (Appendix C). Due to Division of Marine Fisheries regulations the area cannot be closed to harvest for longer than a three consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations, ensuring continued overall productivity of the mitigation area.

**K. Adaptive Management Plan:**

As with any biological system, there are numerous unknowns that can affect results. The main tenants of the adaptive management plan revolve around field performance and initial performance metrics for years one through five. Beyond five years, please see the Long-Term Management Plan. We believe, based upon experience and best available science that a self-sustaining population can be achieved that meets protection of fish species, biodiversity and water quality improvement goals. However, as noted above, the initial targets of 25 oysters/m<sup>2</sup> are based on data that is not from Wellfleet Harbor.

The variables that may lead to implementing changes to the mitigation plan include:

- Weather*
- Recruitment*
- Cultch volumes*
- Survival rates*
- Bottom condition*
- Disease*
- Predator Pressure*
- Growth rate*



*Poaching*  
*Water Quality*  
*Ice mortality*

Each of these variables may require different management responses. Those responses could include increased or decreased need for cultch or spawning stock. Increased or decreased allowance for harvest. Changes in how harvest can be conducted to protect other ecosystem functions. Other potential measures to ensure successful ecosystem restoration could include seeding the area with additional brood stock or “spat on shell” stock from other productive areas. It is likely that as conditions and influences on the mitigation area change, a combination of these approaches will be necessary to meet our performance goals. Oyster density of 25/m<sup>2</sup> is a proxy for overall enhancement of the mitigation site and is expected to lead to improvements in water quality and biodiversity. Therefore, if water quality and biodiversity are improving, an oyster density below 25/m<sup>2</sup> may be sufficient to show enhancement. Any proposed modifications to the work plan will be sent to the Corps for approval prior to implementation.

Long-term and adaptive management will be conducted by the Wellfleet Shellfish Department. Consistent with other shellfish designations such as conditional, prohibited, seasonal closures and rotations, and the required harvest openings, this area will be managed to achieve a density of 25 oysters/m<sup>2</sup> with the goal for it to become self-sustaining and providing enhanced ecoservices with a contingency buffer against disease, ice mortality or other resource destruction.

In addition, there may be compelling reasons, based on local conditions, to decrease any of the metrics such as oyster density, biodiversity or water quality. Based on monitoring data, the Town will have a meeting with the USACE mitigation team after one year to assess progress to date and determine whether any substantive changes are required. Based on monitoring results, this may result in adjustments to performance goals. The Town may alter the workplan to include additional cultch, location of cultch, additional seed or additional input of other shellfish. Additionally, there may be a need to reassess the location of the mitigation.

The Town will be judged to be in compliance with the mitigation agreement so long as the agreed upon work plan is being executed. After five to seven years of implementation and monitoring, if performance standards have been achieved, the USACE will issue a Certificate of Compliance.

Due to the vagaries of natural resource habitats specific achievement of any performance standard may require changes to the work plan but would not constitute noncompliance. Please see Appendix D for potential adaptive and long-term management scenarios.

**L. Financial Assurances:**

The Town of Wellfleet will purchase a \$50,000 performance bond that totals the first-year objectives and project implementation for Blackfish Creek. The Town of Wellfleet will request release of the performance bond after a post construction report has been submitted to the Corps and the Corps approves release.

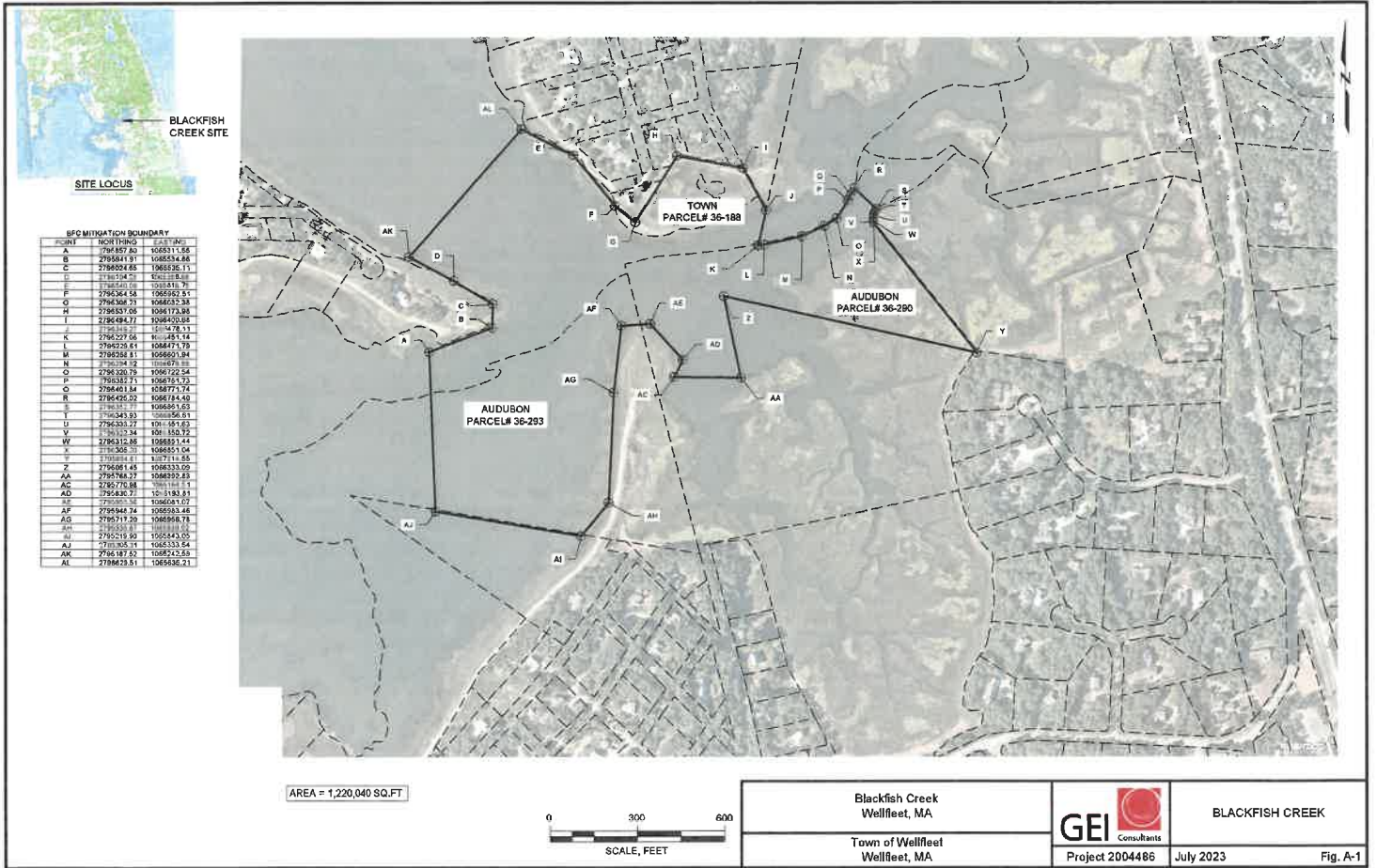
DRAFT

FY 2024				FY 2025			
Item	amount	price	total	amount	price	total	
Racks	55	\$100.00	\$5,500.00				
4mm bags	100	\$7.75	\$775.00				
9mm bags	333	\$7.75	\$2,580.75				
Bag Assembly	433	\$2.00	\$866.00				
Zipties	1332	\$8.60	\$120.40				
Condos - 8 bay	13	\$240.00	\$3,120.00				
Candy Striped Poles	5	\$10.00	\$50.00				
Buoys	10	\$22.00	\$220.00				
Poly Line Roll	1	\$150.00	\$150.00				
Cultch	2.5	\$1,250.00	\$3,125.00	2.5	\$1,250.00	\$3,125.00	
Fuel (cultching and relay)	96	\$5.29	\$507.84	96	\$5.29	\$507.84	
Oil (cultching and relay)	4	\$30.00	\$120.00	4	\$30.00	\$120.00	
Oyster Seed R6-8 Hatchery (100K/price is per 1,000)	100	\$37.85	\$3,785.00	100	\$37.85	\$3,785.00	
Quahog Relay	0	0	0	70	\$27.25	\$1,907.50	
JM OT (cultching/relay)	20	\$53.27	\$1,065.47	20	\$53.27	\$1,065.47	
CM OT (cultching/relay)	20	\$47.69	\$953.75	20	\$47.69	\$953.75	
WSD labor planting and farm ops	IN KIND			IN KIND			
Baseline Survey			\$4000				
Chapter 91 Permit Amendment			\$40,000				
Monitoring Survey(s)			\$20,000			\$20,000.00	
			\$86,939.21			\$31,464.56	
				<i>*same for five years but we need to expect increases in prices</i>			

DRAFT

## **Appendix A – Figures and Site Photos**

DRAFT



DRAFT

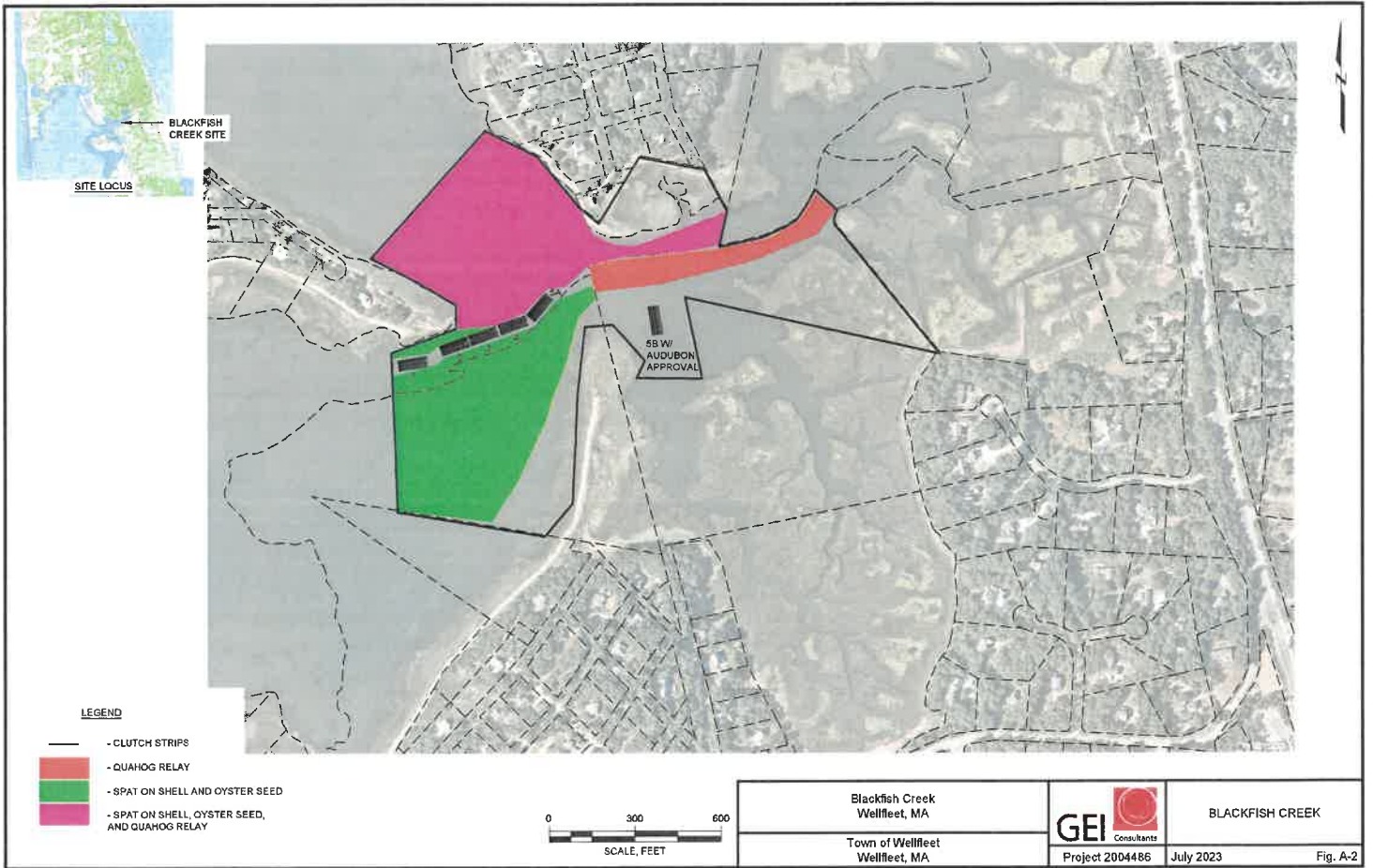




Figure 1: Blackfish Creek looking from Pleasant Point



Figure 2: Blackfish Creek tidal flats offshore from approximately State Street and Atlantic Ave





Figure 3: Blackfish Creek Salt Marsh and Tidal Flats looking from the area of Route 6



Figure 4: Blackfish Creek typical sediment composed of med / fine sand and some silt.

DRAFT

## **Appendix B – Blackfish Creek Baseline Survey**





## Memo

**To:** USACE New England District, Regulatory Division  
**From:** Alyssa Richard  
**c:** Town of Wellfleet  
**Date:** July 3, 2023  
**Re:** Baseline Biological Assessment, Blackfish Creek Mitigation Site  
Town of Wellfleet Harbor Dredge Mitigation Plan  
Blackfish Creek, Wellfleet, MA  
GEI Project No. 2004486

---

As a requirement for the Wellfleet Harbor Dredge Mitigation plan a baseline biological diversity survey was conducted in the Blackfish Creek site (see attached map). GEI Consultants and the Wellfleet Shellfish Department conducted a survey of the 28-acre mitigation area that included sediment sampling for grain size characterization and biological diversity assessment. The survey was conducted from approximately 7:00 AM to 12 PM on June 22, 2023, around the predicted low tide of 9:28 AM. Weather conditions were clear with excellent visibility. GPS coordinates were taken at various points along the project site and can be seen on the attached plan marked samples BFC1 – BFC 25. Sample point BFC 21 was not able to be surveyed as the area was inaccessible by foot. Sample locations were predetermined as agreed on by the Town and USACE, Samples BFC13, BFC19 and BFC 20 were modified due to accessibility and sample BFC 25 was added in the field. Samples were taken using a 1m<sup>2</sup> aluminum quadrat at the GPS coordinate previously determined (except as listed) then digging approximately 2 inches into the sediment to count individuals present. After counts were completed a sediment sample was taken for grain size analysis.



*Figure 1: Typical 1m<sup>2</sup> quadrat sample*



*Figure 2: View of the tidal flats*

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-3-

Sample BFC1		
Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )		
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	103	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	1	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-4-

**Sample BFC2**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1	(clam worm)
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	1	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

Sample BFC3

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	100s	*seed barnacles pictured attached to a shell
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	17	
Oyster ( <i>Crassostrea virginica</i> )	2	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	42	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	



Figure 3 Seed Barnacles found on a shell

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-6-

**Sample BFC4**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	1	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	2	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

**Sample BFC5**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	14	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	1	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	
Horseshoe Crab ( <i>Limulus polyphemus</i> )	1	



Figure 4 Horseshoe crab found at Sample #5

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-8-

Sample BFC6		
Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	115	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1 (clam worm)	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	



DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-9-

Sample BFC7

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	2	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	26	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

## Sample BFC8

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugillator</i> )	12	

## Sample BFC9

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	2	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	1	

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-12-

Sample BFC10

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	7	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	2	
Periwinkle ( <i>Littorina littorea</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-13-

Sample BFC11

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	23	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	
Horseshoe Crab ( <i>Limulus polyphemus</i> )	1	

## Sample BFC12

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	32	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

## Sample BFC13(b)

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	62	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	2	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	22	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

**Sample BFC14**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	2	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	63	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Periwinkle ( <i>Littorina littorea</i> )	6	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	



**Sample BFC 15**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	19	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	25	
Fiddler Crab ( <i>Leptuca pugillator</i> )	0	

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-18-

**Sample BFC 16**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	9	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )		

**Sample BFC17**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	12	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

**Sample BFC18**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	4	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

**Sample BFC19(b)**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	10	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	1	
Ribbed Mussel ( <i>Geukensia demissa</i> )	3	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	4	
Fiddler Crab ( <i>Leptuca pugilator</i> )	25	

**Sample BFC20(b)**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	59	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugillator</i> )	4	

DRAFT

USACE New England District, Regulatory Division  
 July 3, 2023

-23-

**Sample BFC22**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	6	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	

**Sample BFC23**

<b>Species</b>	<b>Number</b>	<b>notes</b>
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	1	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	0	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	0	



**Sample BFC 24**

Species	Number	notes
Amphipod (various sp)		
Anemone (various sp)		
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )		
Barnacle (various sp)		
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	5	
Mites		
Mud Snail ( <i>Ilyanassa obsoleta</i> )	33	
Oyster ( <i>Crassostrea virginica</i> )		
Oyster Drill ( <i>Urosalpinx cinerea</i> )		
Polychaete (various sp)		
Ribbed Mussel ( <i>Geukensia demissa</i> )		
Whelk (various sp)		
Hermit Crabs ( <i>Pagurus sp.</i> )	4	
Fiddler Crab ( <i>Leptuca pugilator</i> )		

**Sample BFC25**

Species	Number	notes
Amphipod (various sp)	0	
Anemone (various sp)	0	
Asian Shore Crab ( <i>Hemigrapsus sanguineus</i> )	0	
Barnacle (various sp)	0	
Hard Clam (Quahog) ( <i>Mercenaria mercenaria</i> )	0	
Mites	0	
Mud Snail ( <i>Ilyanassa obsoleta</i> )	0	
Oyster ( <i>Crassostrea virginica</i> )	0	
Oyster Drill ( <i>Urosalpinx cinerea</i> )	0	
Polychaete (various sp)	0	
Ribbed Mussel ( <i>Geukensia demissa</i> )	33	
Whelk (various sp)	0	
Hermit Crabs ( <i>Pagurus sp.</i> )	0	
Fiddler Crab ( <i>Leptuca pugilator</i> )	7	

***Biodiversity***

The primary species found on the mud flat were mud snails, hermit crabs and fiddler crabs. The mud flat is surrounded by sea grass beds which contain an abundance of fiddler crabs and ribbed mussels. The tidal flats primarily contain mud snails and hermit crabs although polychaetae worms and horseshoe crabs were also found. No Asian shore crabs (an invasive species) were counted in the sample areas. Some sample locations contained quahogs with a few oysters counted as well.

***Sediment Characterization***

Sediment samples were fairly uniform in appearance, consisting of sand with a layer of darker silty sediment and a thin layer of tidal deposition on top. Samples were combined into seven composite samples for grain size analysis. Samples 20 and 25 were analyzed as individual samples due to the differences in collection location.

Grain Size analysis conducted on June 30, 2023, shows that sediment is predominantly made up of medium to fine grain sand with some silt/clay fines. The distribution of fines can be seen to increase as you move to the East further into Blackfish Creek. Sample 20 and 25 have

# DRAFT

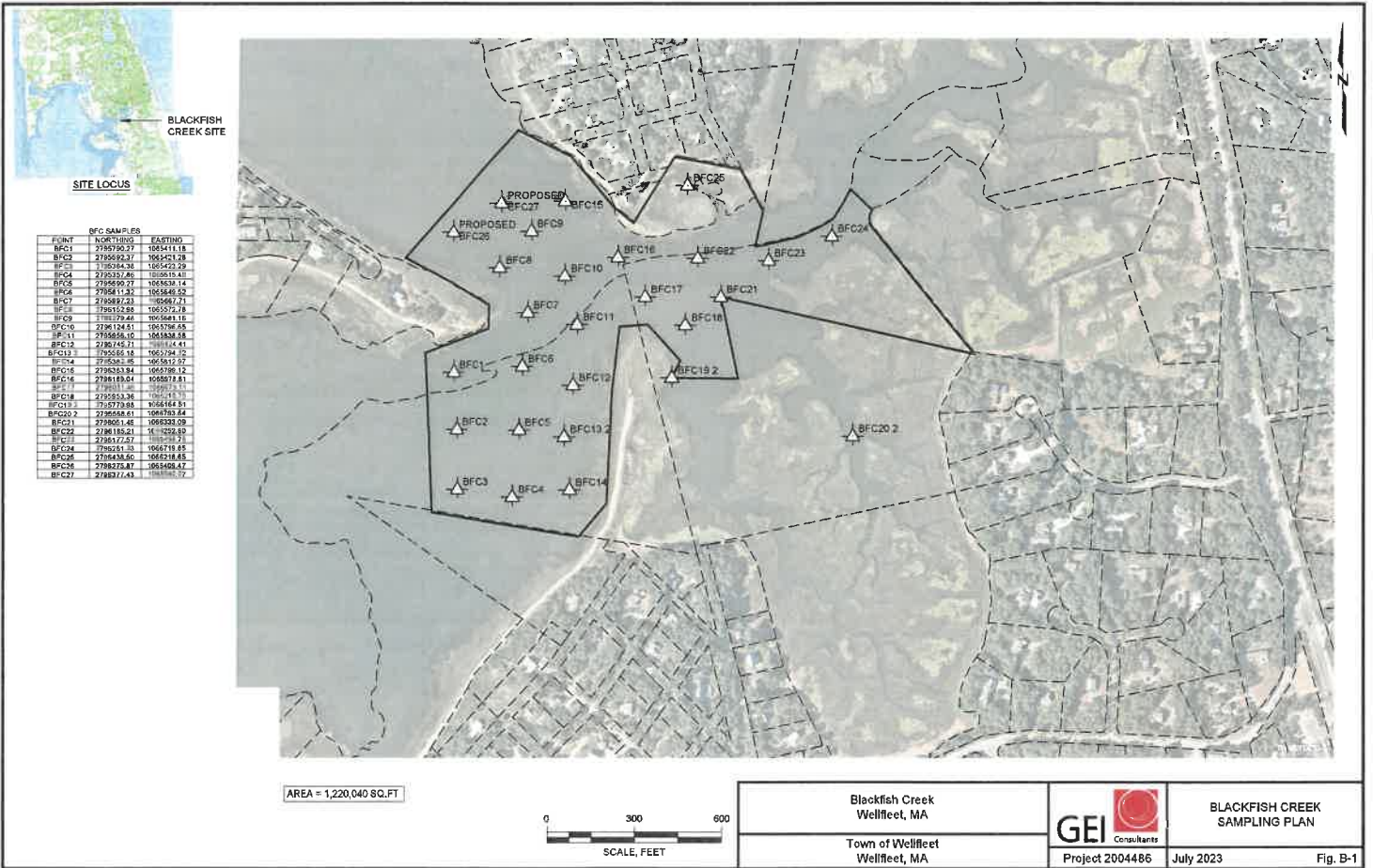
USACE New England District, Regulatory Division  
July 3, 2023

-27-

the highest percentage of fines (31.2% and 14.2% respectively). See the attached analysis for grain size details.

[AMR : admin initials]

DRAFT



DRAFT

## **Appendix C – Long Term Management Plan**

DRAFT

# LONG TERM MANAGEMENT PLAN

for

*Wellfleet Harbor Shellfish Habitat Restoration Plan*

*July 2023*

---

Town of Wellfleet, MA

GEI Consultants, Inc.

July 2023

<b>Table of Contents</b>	<b>Page</b>
<b>I. Geographic Information</b>	L-2
<b>II. Introduction</b>	L-2
<b>III. Property Description</b>	L-2
<b>IV. Natural Resources</b>	L-5
<b>V. Management Vision &amp; Goals</b>	L-6
<b>VI. Management Actions</b>	L-7
<b>VII. Funding &amp; Task Prioritization</b>	L-9

**I. Geographic Information**

**Site Name:** Wellfleet Harbor Moorings – Area 2  
**Town/County:** Wellfleet, Barnstable County, Massachusetts  
**Total Site Size:** 28 acres

**Type of Ownership:** Municipal  
**Date Acquired:** circa 1763

**II. Introduction**

**A. Purpose of Management Plan**

The purpose of this management plan is to ensure that the property is enhanced, managed and maintained in the Mitigation Plan referenced in Corps Permit Number NAE-2015-1414.

**B. Long-Term Steward and Responsibilities**

The Long-Term Steward of the site is the Town of Wellfleet. The Town of Wellfleet and subsequent Long-Term Stewards if the property is transferred, shall implement this management plan, managing and monitoring the property to preserve its habitat and conservation values. Before any action is taken to void or modify the deed (or easement), management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over the site, 60-day advance notification must be given to the U.S. Army Corps of Engineers district engineer.

**C. Management Plan Review**

The management plan will be reviewed at a minimum once every 5 years by the Long-Term Steward. The plan may be revised or supplemented with additional information and management recommendations. Any revisions other than edits that change the management actions beyond standard maintenance activities will be reviewed with the U.S. Army Corps of Engineers.

**III. Property Description**

**A. Setting and Location**

The compensatory property BFC 1 is located in Blackfish Creek. The property is intertidal mudflats, and contains no forest, field, upland, wetland, streams, etc.

BFC 1, is adjacent to Town property, Wellfleet Conservation Trust property, Massachusetts Audubon property, and upland private owners.

**B. Directions and Access**



# DRAFT

Phase 2 Site – BFC 1 (41.91052210420094, -69.99373781217896):

To view:

From the intersection of Highway 6 and Main Street, Wellfleet proceed west on Highway 6 (actual compass heading is south) for 2.6 miles, passing LeCount Hollow Road on the left. In another .2-mile, Blackfish Creek is visible on the right.

To visit:

Continue on Highway 6 for .2 mile and turn right on Old Wharf Road. Proceed .7 mile to a small one car parking space on the right, with split rail fence and a No Vehicles but Walkers Welcome sign. Follow the path to the right, along the shoreline. It leads to a point between BCDMA 13 and BCDMA 14.

## **C. History and Land Use of Property**

### **1. Acquisition History**

Acquisition of the site, or more specifically authority for the site, is derived by MA GL Chapter 130 and the MA DMF Shellfish Planting Guidelines. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State.

### **2. Land Use**

BFC 1 Site:

This site is intertidal. Currently, there is some shellfish harvesting in BFC 1, but it is not a very productive area.

There are no existing man-made features on the property – no roads, no trails, no buildings, no walls, no fencing, no structures of any kind, no boat launches, no historic areas.

### **3. Historic or Archaeological Sites**

There are no known historic features or archaeological sites in the proposed intertidal mitigation site BFC 1.

### **4. Existing Easements or Other Restrictions**

There are no existing easements, rights-of-ways, or leases held by others.

### **5. Legal Documents Appendix**

The area, along with all shellfishing areas in Wellfleet, are protected by MA GL Chapter 130. Shellfishing habitat in these areas is regulated through the Municipal Propagation Permit as granted to the Town by the State and regulated under MA DMF Shellfish Planting Guidelines. The area will be marked as a shellfish restoration area on shellfish maps. Secondary uses would be limited to shellfishing; no mooring fields, municipal docks, or dredging shall be conducted in the mitigation area.

## **D. Adjacent Land Uses**

The properties adjacent to the site and their current uses are:

BFC 1

- Blackfish Creek – shellfish harvesting, water activities, including swimming, boating and kayaking.
- Audubon Land
- Town of Wellfleet Land
- Wellfleet Conservation Trust Land
- Private Residence(s) - upland of intertidal site.

**IV. Natural Resources**

**A. Aquatic Resources**

The mitigation site consists of intertidal mudflats that are walkable at low tide. The site is an historic shellfish growing area that has had limited productivity in recent years for various reasons.

**B. Baseline Description of Biological Resources**

**1. Biological Species and Communities**

The Baseline survey for the BFC1 site was conducted in June 2023.

**2. Endangered, Threatened and Rare Species, and Species of Special Concern**

Red Knot, Roseate Tern

**C. Soils & Geology**

Sediment samples were fairly uniform in appearance, consisting of sand with a layer of darker silty sediment and a thin layer of tidal deposition on top. Samples were combined into seven composite samples and two individual samples for grain size analysis

Grain Size analysis conducted on June 30, 2023, shows that sediment is predominantly made up of medium to fine grain sand with some silt/clay fines. The distribution of fines can be seen to increase as you move to the East further into Blackfish Creek. See Appendix B for detailed GSA information.

**D. Hydrology and Topography**

Wellfleet Harbor, where the BFC site is located, has an average tidal exchange of 10 feet.

**E. Summary of Restored & Enhanced Resources**

This project will measure water quality, biodiversity, and oyster density to indicate enhancement success. Enhancement success for the following attributes is defined below for each standard.

**Water quality:** Upon construction of the project, water quality is expected to improve on the site during the 5 to 7 -year monitoring. Successful water quality is defined as an improvement in targeted metrics year over year for 5 to 7 years. Ultimately the site will exceed the metrics established in the baseline and is envisioned to meet EPA’s definition of “excellent” water quality designation.

**Oyster density:** Success for the site is defined as surviving oyster density on the total acres of the

site at 25 oysters / m<sup>2</sup>. This will be measured at baseline, with a linear progression over the 5 to 7 years.

Biodiversity: Success for this attribute is defined as increase over the baseline progressively for the 5 to 7 years. Each year biodiversity will increase, and at a minimum will not decrease. Given the transient nature of some of the species to be measured, it is understood that not all species will be found or increase year after year. Biodiversity success will be measured by overall species richness.

**F. Threats (existing or potential)**

There has not been motor vehicle activity on the proposed intertidal compensatory sites, nor will future vehicle activity be allowed.

*1. Waste Disposal (such as dumping of trash or debris)*

There has not been any dumping of trash or debris on the proposed intertidal compensatory sites, nor will such activity be allowed in the future.

*2. Invasive Species, Pests and Pathogens*

The project does not involve the introduction or removal of invasive species.

*3. Vandalism and Encroachment (such as destruction of signs or other property, boundary encroachments, etc.)*

There has been no vandalism or encroachment on the proposed intertidal compensatory site. The very nature of the site, i.e., intertidal with no physical structures located thereon, precludes vandalism from being a future concern. There may be shellfish signage installed in the future, similar to the shellfish signage elsewhere in Town. Historically, such signage has been respected and free of vandalism.

**V. Management Vision & Goals**

Maintain the property to support the propagation of sustainable shellfish populations.

**A. Permitted Uses:**

Shellfish harvesting consistent with the terms of the Mitigation Plan and subject to the guidelines and regulations established by the Commonwealth of Massachusetts and Town of Wellfleet and enforced by the Wellfleet Shellfish Department.

Due to Division of Marine Fisheries regulations, the area cannot be closed to harvest for longer than a three consecutive year period. The Town of Wellfleet Shellfish Department will open the area for harvest in such a way as to ensure minimum density of oyster populations and continued overall productivity of the mitigation area. Consistent with other shellfish designations such as conditional, prohibited, seasonal closures and rotations, and the required harvest openings, this area will be managed to achieve a density of 25 oysters/m<sup>2</sup> with the goal for it to become self-sustaining and providing enhanced ecoservices.

Consistent with enhancement goals and achieving appropriate oyster density, the work plan shall include the following activities performed by the Shellfish Department:

# DRAFT

- Late fall each year, conduct site visits to ascertain spat recruitment on the cultch strips and to evaluate presence of legal-sized oysters in the area.
- Conduct rudimentary counts of legal-sized oyster populations and determine which cultch strips or areas can support harvest and for how long.
- Take into consideration the presence of quahogs and other shellfish, such as soft-shell clams.
- Consider impacts of both recreational and commercial harvest openings.
- Develop a harvest plan with proposed opening dates and buoy placement to delineate the open area.
- Bring the plan to the Shellfish Advisory Board and solicit community feedback. Revise the harvest plan, as deemed appropriate, with shellfishermen's feedback.
- Present the final harvest plan to the Selectboard to keep them informed.

## **B. Prohibited Uses:**

- No dogs; no pets.
- No off-road motorized vehicles.
- No camping.
- No fires.
- No cutting or removal of vegetation

## **C. Public Use Guidelines:**

- Passive visual enjoyment.
- Respect abutting/upland private property.
- Boating and kayaking
- Fishing
- Shellfish harvesting, subject to state and town regulations.

## **VI. Management Actions**

### **A. Natural Resources**

Action: At least one annual walk-through survey will be conducted to qualitatively monitor the general condition of these habitats. General topographic conditions, hydrology, general vegetation cover and composition, invasive species, erosion, will be noted, evaluated and mapped during a site examination. Notes to be made will include observations of species encountered, water quality, general extent of wetlands and streams, and any occurrences of erosion, structure failure, or invasive or non-native species establishment.

### **B. Objectives: Monitor population status and trends. Manage to maintain habitat for an oyster population density of 25 oysters/ m<sup>2</sup>.**

Action: Monitor status every year by conducting population assessment surveys. The annual survey dates will be selected during the appropriate period as identified by the applicable agencies and will generally occur in May and October of each year. Occupied habitat will be mapped and numbered to allow repeatable data collection over

subsequent survey years.

Action: Visually observe for changes to occupied habitat, such as changed hydrology or vegetation composition. Record any observed changes. Size of population (1 acre, etc.).

Action: Implement other actions that enhance or monitor habitat characteristics to maintain oyster densities at 25 oysters / m<sup>2</sup>.

### **C. Infrastructure and Facilities, Security and Public Access**

#### **1. Gates, Parking, Fences, Signage, and Property Boundaries**

The intertidal habitat precludes the creation of trails. There are some limited areas where there is public parking and access. This area will be accessed primarily by walking, boat, skiff, and kayak.

Signage will be installed indicating it is a closed area for shellfish restoration. When quahogs from the Taunton River are planted there will also be signs up for “No Shellfishing Contaminated Area”.

#### **2. Trash and Trespass**

Trash and trespass issues will be monitored and enforced by the Shellfish Department.

### **VII. Funding and Task Prioritization**

- A.** The funds for this project will be coming out of the Town’s dredging fund. When monies in that fund need to be replenished, the Dredging Task Force and/or Harbormaster will create a funding article for approval by voters at the Annual Town Meeting.

### **VIII. Literature Cited**

Report of the Oyster Metrics Workgroup, “Restoration Goals, Quantitative Metrics and Assessment Protocols for Evaluating Success on Restored Oyster Reef Sanctuaries” Submitted to the Sustainable Fisheries Goal Implementation Team of the Chesapeake Bay Program, December 2011, [Restoration Goals, Quantitative Metrics and Assessment Protocols \(oyster-restoration.org\)](http://oyster-restoration.org)

Dissanayake, N. et. al, “Ecological functioning of mudflats: global analysis reveals both regional differences and widespread conservation of functioning” *Mar Ecol Prog Ser.*, Vol. 604, pp. 1 – 20, October 4 2018

Water Quality Data from Center for Coastal Studies can be accessed at:

<http://www.capecodbay-monitor.org/stations/105>

DRAFT

**Appendix D– Table of Potential Adaptive and Long Term  
Management Scenarios**

**DRAFT**

**MITIGATION PLAN SCENARIOS**

<b>PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLIANCE</b>		
<b>Scenario</b>	<b>Applicable Document</b>	<b>Required Action</b>
Year Seven - oyster population has not reached 25/square meter.	Adaptive Management Plan	<p>Continue the cultch and seed for additional years and/or implement additional actions to increase the population.</p> <p>However, if the oyster population has steadily increased in prior years (but not reached 25/square meter) and the other metrics (biodiversity and water quality) have improved, USACE may issue a Certificate of Compliance.</p>
Years One through Seven - severe weather event(s) destroys, or disease decimates the oyster population.	Adaptive Management Plan	<p>Year Two or similar effort, and continue with the Plan, thus adding additional years to the mitigation plan timeline. Jump start the enhancement by following Year Two cultch / seed protocol or similar actions as proposed by the Shellfish Department and reviewed with the USACE. (Year Two protocol includes 10 lines of cultch and 80,000 to 100,000 seed)</p>
During the Workplan period (i.e., after Year Seven but before a Certificate of Compliance has been issued) - severe weather or disease destroys the oyster population.	Adaptive Management Plan	<p>Viewed as if this event had occurred after having already received a Certificate of Compliance. Jumpstart by implementing the Year Two components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.</p> <p>The number of restarts or Year Two initiatives will not exceed five (5) attempts over the life of the Mitigation Plan, after which no further action is required.</p>

**DRAFT**

**MITIGATION PLAN SCENARIOS**

<b>AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE</b>		
<b>Scenario</b>	<b>Applicable Document</b>	<b>Required Action</b>
Years 1 - 10, AFTER issuance of Certificate of Compliance - oyster population falls below 25 /square meter.	Long Term Management Plan	The Shellfish Department will close the area (consistent with MA DMF regulations) to allow the population to naturally increase.  If populations do not recover (after one year) or continue to fail, there would be a jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.
Years 1- 10, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population	Long Term Management Plan	Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.
Years 10 and beyond, AFTER issuance of Certificate of Compliance - severe weather event or disease destroys the oyster population	Long Term Management Plan	Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.
Years 10 THROUGH 15 AFTER Issuance of Certificate of Compliance - oyster population falls below 25 /square meter.	Long Term Management Plan	Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.



DRAFT

MITIGATION PLAN SCENARIOS

<p>Years 16 and beyond, AFTER Issuance of Certificate of Compliance - oyster population falls below 25 /square meter.</p>	<p>Long Term Management Plan</p>	<p>Jump start by implementing the Year 2 components outlined in the Mitigation Work Plan, Section F with respect to the placement of cultch and seed. Alternate actions proposed by the Shellfish Department may be substituted if approved by USACE.</p>
---	----------------------------------	---

DRAFT

MITIGATION PLAN SCENARIOS

ANYTIME PRIOR TO OR AFTER ISSUANCE OF CERTIFICATE OF COMPLIANCE		
Scenario	Applicable Document	Required Action
Town desires to opt out of the mitigation Plan	Opt Out Clause	<p>The opt Out Clause can be invoked by the Town at any time throughout the life of the Mitigation Plan.</p> <p>Pay a permit fee for the required 7.16 mitigation credits (or fewer credits if mitigation plan results at that time has resulted in a reduction to required credits). The amount of the Fee will be based on the MA In Lieu Fee (ILF) Program, then pertaining.</p>

DRAFT

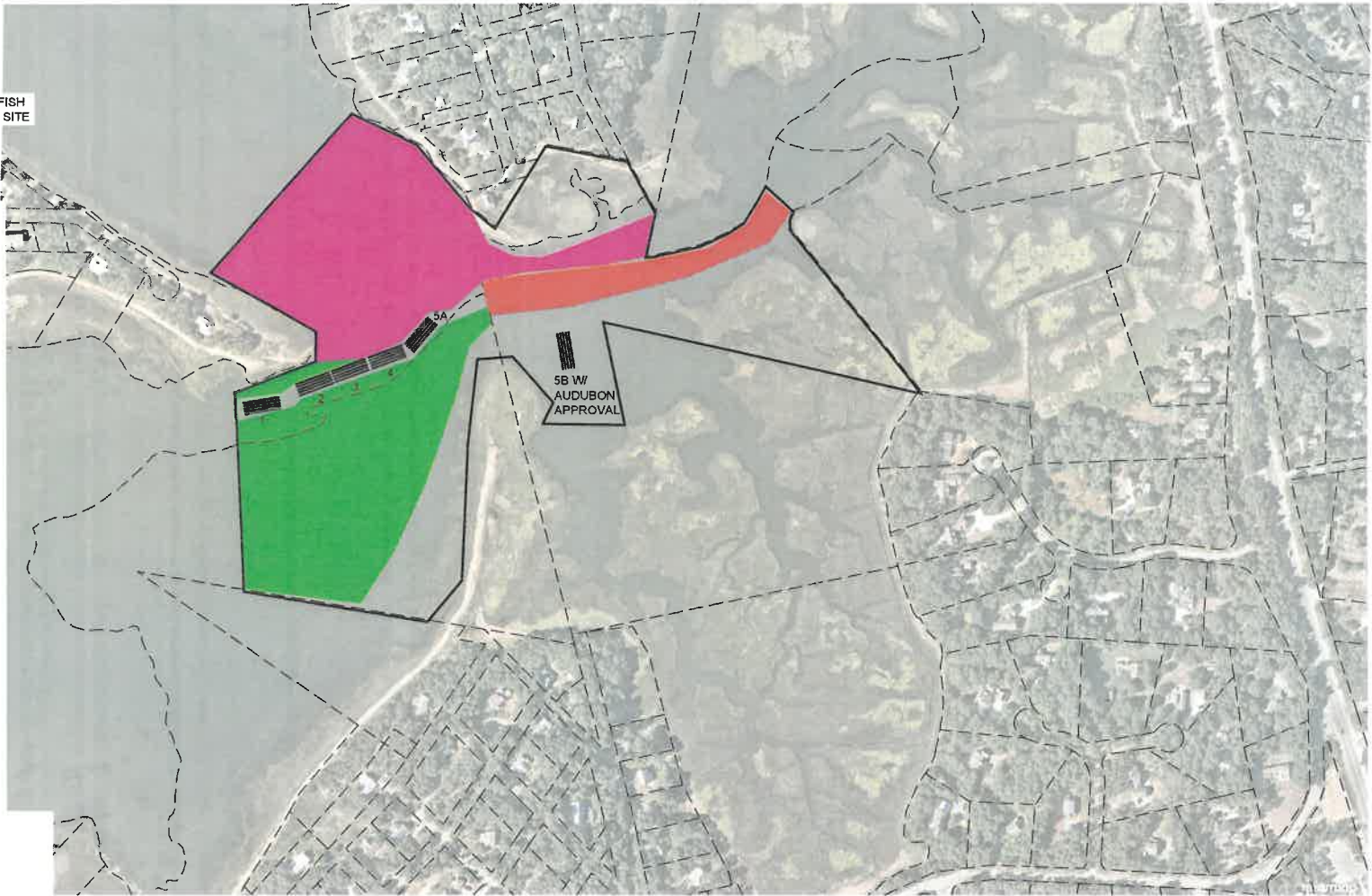
MITIGATION PLAN SCENARIOS

REPORTING REQUIREMENTS		
<b>Self-Verification Definition</b>	Self-verification shall include information on oyster density in the reporting year; dates that the Blackfish Creek site has been opened for harvest, and the extent of harvest (commercial, recreational, etc.) for each year since the previous report.	
<b>Scenario</b>	<b>Applicable Document</b>	<b>Required Action</b>
Years 1 through 10 AFTER Issuance of Certificate of Compliance.	Self-verification shall be provided every two years. With the first report being two years after issued certificate of compliance.	Continued reporting maintains the status of the self-reporting requirements and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2.
Years 11 through 15 AFTER Issuance of Certificate of Compliance.	Self-verification shall be provided every five years.	Continued reporting maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2.
Years 16 AFTER Issuance of Certificate of Compliance.	Self-verification shall be provided every five years	<b>Continued reporting</b> maintains the status of the mitigation plan and as such satisfies the permit requirement for all future dredging in Area 2, South Mooring Field, regardless of the time since the previous dredging. Continued success of the blackfish mitigation site offsets any future potential dredging impacts in the footprint of Area 2.





DRAFT

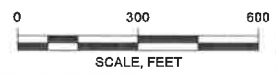
**MITIGATION PLAN SCENARIOS**

After Year15 following Issuance of Certificate of Compliance.	Permit Modification Request	The Town can request to modify the permit to submit self-verification every 10 years or so or relinquish monitoring reports at 15 years post certification.
---	-----------------------------	---



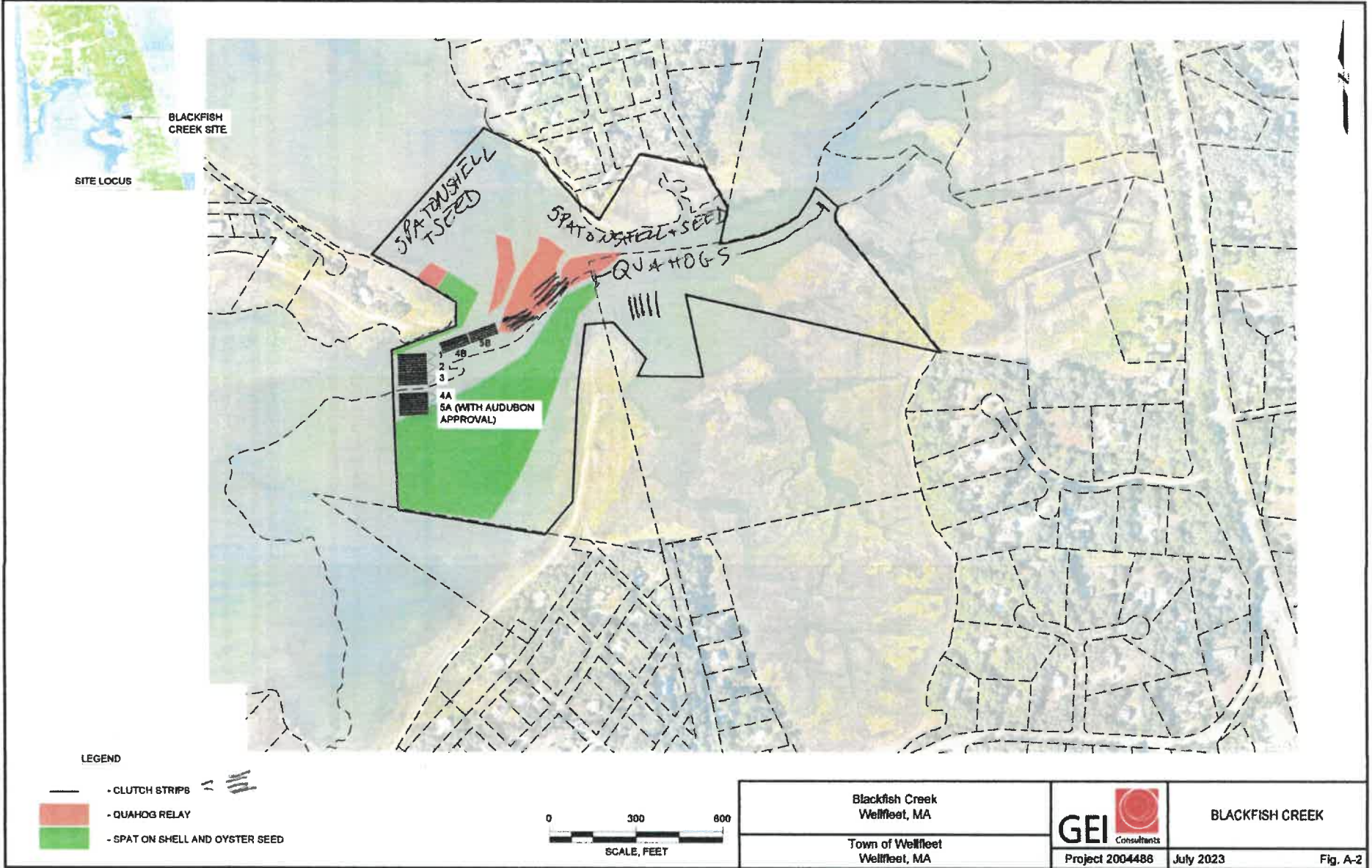
**LEGEND**

-  - CLUTCH STRIPS
-  - QUAHOG RELAY
-  - SPAT ON SHELL AND OYSTER SEED
-  - SPAT ON SHELL, OYSTER SEED, AND QUAHOG RELAY



Blackfish Creek Wellfleet, MA		BLACKFISH CREEK
Town of Wellfleet Wellfleet, MA	Project 2004486	July 2023 <span style="float: right;">Fig. A-2</span>







## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

V

### BUSINESS

~ B ~

<b>REQUESTED BY:</b>	<b>Rich Waldo ~ Town Administrator</b>
<b>DESIRED ACTION:</b>	<b>Update the Selectboard on the Financial Status of the town.</b>
<b>PROPOSED MOTION:</b>	<b>If a motion is determined to be needed one will be made at the time of the meeting</b>
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition (s):
<b>VOTED:</b>	



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

V

### BUSINESS

~ C ~

<b>REQUESTED BY:</b>	<b>Rich Waldo, Town Administrator</b>
<b>DESIRED ACTION:</b>	<b>To approve the Town Administrator Development plan</b>
<b>PROPOSED MOTION:</b>	<b>I move to approve the Town Administrator's Development plan as presented at tonight's meeting.</b>
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____





## MEMORANDUM

TOWN OF WELLFLEET MASSACHUSETTS 02667  
Tel (508) 349-0300 Fax (508) 349-0305  
www.wellfleet-magov

To: Selectboard  
From: Richard J. Waldo, Town Administrator  
Cc: Rebekah Eldridge, Executive Assistant  
Subject: Professional Development Plan  
Date: June 29, 2023

---

As required per my contract agreement, I am informing you of my proposed professional development plan for FY 2024.

### **Summer 2023: Massachusetts Certified Public Purchasing Official (MCPPO) Training**

Finish the last of 3 modules (**Supplies and Services Contracting**) for MCPPO designation, The final course will be completed within the first week of July, 2023. Once finished, I will have met the obligations for MCPPO certification and will submit for the designation.

### **Fall 2023: International City/County Management Association – Annual Conference 9/30 – 10/4**

I would like to attend the ICMA Annual Conference in Austin Texas and enroll in a few of their Micro-certificate programs. ICMA's micro-certificate programs are four-hour bootcamps for those who want to grow their competencies in subjects most relevant to their professional lives, in ways that allow them to acquire skills that are not only vertical, but transversal. I plan to enroll in at least two micro-certificates:

- Building High Performing Board-Manager Relations
- Leader as Coach: Inspire your team to exceed expectations.

### **Winter 2024: Government Finance Officers Association (GFOA) – Training**

I would like to attend the GFOA's course on Debt Management Best Practices. This course will help participants better understand how to develop appropriate policies and procedures for issuing debt and overall debt management. In addition to the best practices, the course will feature practical examples, details on recent federal rulemaking, including how it impacts governments, and interactive discussion on the following topics:

- Debt Issuance
- Selecting Municipal Finance Professionals
- Disclosure Practices and Investor Relations
- Financing Instruments and Techniques
- Ongoing Debt Management

The Commonwealth of Massachusetts

Office of the Inspector General



Hereby designates

**Richard J. Waldo**

as a

**Massachusetts Certified Public Purchasing Official  
(MCPPO)**

July 13, 2023

This designation expires three years from the date of issuance

*Jeffrey S. Shapiro*

Jeffrey S. Shapiro  
Inspector General





## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

V

### BUSINESS

~ D ~

<b>REQUESTED BY:</b>	<b>Department Heads</b>
<b>DESIRED ACTION:</b>	<b>To review and approve the departmental goals</b>
<b>PROPOSED MOTION:</b>  <b>SUMMARY:</b>	<b>I move to approve the goals presented by the various department heads in the Selectboard packet for tonight's meeting.</b> <ul style="list-style-type: none"><li>• Administration</li><li>• Human Resources</li><li>• Police</li><li>• Fire</li><li>• DPW</li><li>• Building Department</li><li>• Community Services</li><li>• Town Clerk</li><li>• Shellfish Department</li><li>• Harbormaster</li></ul>
<b>Project</b>	Moved By: _____ Seconded By: _____  Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Town Administration**

Richard J. Waldo

### **Department-specific Objectives: *for my department for FY24***

1. Implement recommendations from 2023 DLS Financial Management Review.
2. Analyze capital needs associated with sewerage downtown corridor including treatment plant. Implement the Targeted Watershed Management Plan.
3. Work with the Finance Team (Finance Committee, Town Accountant, Town Treasurer) to present to Annual Town Meeting a budget that is efficient, maintained, and properly appropriated, while maintaining fiscal transparency. Find ways to fund the Capital Stabilization Fund.
4. Maintain an open and transparent atmosphere with all elected and appointed boards, ensuring that all Select Board members are informed of matters impacting the Town. Use multi-board meetings whenever necessary.
5. Support staff on their initiatives to improve their departments and help with implementation.

### **Department-specific Objectives: *for my department for FY25***

1. Investigate paid parking within Town center and other parking areas.
  2. Work with NSP on future realigning and other drop-off amenities on Ocean View Drive.
  3. Continue to seek grants and other sources of funding for improving Town Infrastructure
  4. Present and begin to implement Long-Range Plan for improvements to town-owned buildings.
  5. Having further discussions with the Board of Trustees of the library to make the library meeting room more accessible for regularly scheduled municipal public meetings, if necessary.
-

**Department-specific Objectives: *for my department for FY26***

1. Identify and implement interactive enhancements on our website to help increase public engagement.
2. Examine inter-departmental processes and apply collaborative improvements.
3. Meet regularly with neighboring towns' administrators to collaborate.

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Human Resources Department**

Human Resources Director

### **Department-specific Objectives: *for my department for FY24***

1. Develop an onboarding new hire process.
2. Develop and implement an annual recruitment plan with input from hiring managers.
3. Develop an employee newsletter communication.
4. Provide ongoing training sessions with managers to review HR policies, procedures, legal compliance regulations and other HR topics.
5. Review and update the Employee Handbook.

### **Department-specific Objectives: *for my department for FY25***

1. Conduct an Employee Satisfaction Survey.
2. Review survey results with managers and obtain feedback to create an action plan.
3. Share results of Employee Satisfaction Survey with all employees and obtain feedback to implement action plan.
4. Work with managers to create resources and tools to foster growth development among staff.
5. Determine training needs for staff and develop a plan.

### **Department-specific Objectives: *for my department for FY26***

1. Review Town's Benefits package and determine if we can provide additional or expanded benefits.
2. Assess employee training and communications and determine employee impact.
3. Identify impact of objectives from FY24 and FY25 to determine plan for FY26.

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Wellfleet Police Department**

Police Chief Michael Hurley

### **Department-specific Objectives: *for my department for FY24***

1. Continuing the work toward a state Certification or Accreditation of the police department from the Massachusetts Police Accreditation Commission. The administrative team will need to review all department policies to make sure they conform with all state and federal standards. This is a major undertaking requiring numerous staff hours which could take a year or two to complete depending on adjustments that need to be made.
  2. Monitoring the potential service impacts in the FY24 budget resulting from the elimination of the Reserve Officer Program the level of services needed (beach patrols, parking control, organized events, etc.) along with town event requests during the summer and shoulder seasons cannot be fulfilled with the current staffing levels. Due to the complexity of hiring, police academy training and department requirements, it can take 12-18 months to get a new officer deployed in the field. With this timeline and having to wait until fall of 2023 to potentially fill new positions, the department will not have these officers available until mid to late 2024.
  3. Continuing to implement the Police Reform Act of December 2020. Throughout the 2023 calendar year we've been moving toward achieving the milestones required by the state for all police departments. These included (but are not limited to): review and update use of force policies, internal affairs investigations/reporting, racial profiling, POST recertification standards, Civil Rights violations, etc. In addition, POST and MPTC Training Council are releasing new portals that police departments need to report through for the above state requirements which continue to increase each year.
  4. Continue working efficiently with Local, State officials and the Massachusetts Department of Transportation on the Route Six project to enhance the public safety of our roadways. This project will include a major resurfacing of the whole highway and Route Six/Main Street redesign. These projects collectively will need many dedicated administrative staff hours for planning, scheduling, and running the project. These projects are anticipated to last approximately 18-24 months.
  5. Assessing the success of Cahoon Hollow bylaw change, and working with the National Park Service to evaluate any changes that need to be made going forward.
-

### **Department-specific Objectives: *for my department for FY25***

1. Exploring the implementation of a new Records Management Software program for the department. The current system was purchased in 2007 and the need for a major software upgrade is approaching. The vendor we currently use has a new cloud-based system with modern changes available, but the cost would result in this being a Capital Project for FY25.
2. Continuing to schedule mental health check-ins with certified clinicians for full-time staff (police & communications) once a year, and providing for follow-up mental health or wellness care if necessary.
3. Setting a date for the review process to become certified/accredited by Massachusetts Accreditation Commission. Working toward and preparing for this process will be a major undertaking for the department, requiring many staff hours.
4. Continuing Asher Training in conjunction with our neighboring agencies and the National Park Service. This training is vital to ensuring our local communities initiate a joint coordinated response in the event of an active assaultive incident.

### **Department-specific Objectives: *for my department for FY26***

1. Completing an internal review of staffing (police and communications) within the department, based on the need of community
2. Reevaluating the community relationships that are critical to the success of every law enforcement agency, and analyzing changing demographics in order to successfully adapt to new community expectations and needs.
3. Moving forward with new technology and methods for Law Enforcement
4. Working with neighboring agencies on providing informational programs for mental health and drug addiction, and developing new initiatives based on changing needs within the community



**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Fire/Rescue Department**

Chief Richard J. Pauley, Jr.

### **Department-specific Objectives: *for my department for FY24***

1. To effectively place new apparatus in service upon delivery, those being Ladder 93, Engine 95 and Ambulance 97, despite elongated delivery times and supply chain issues.
2. To effectively hire the two (2) new Firefighter/Paramedic-EMT positions despite a very challenging and difficult recruitment process with respect to qualified applicants.
3. To implement a more vibrant public education program particularly with respect to our elder and youth population.
4. To train all Town Department staff in uniform CPR training and AED training.
5. To develop a viable succession plan based upon the upcoming retirement of the Fire Chief.

### **Department-specific Objectives: *for my department for FY25***

1. To develop a formal mentorship program with the regional High School(s) students that would allow some type of training, education and exposure to help with future Firefighter/Paramedic-EMT recruitment.
  2. To replace all Automatic External Defibrillators (AEDs) in Town Buildings.
  3. To ensure that sufficient personnel are trained to have a minimum of three (3) Firefighter/Paramedics on shift on a daily basis.
  4. To continue to train all Department personnel to the Industry standard of operational water craft and water rescue certifications.
-

**Department-specific Objectives: *for my department for FY26***

1. To develop a community paramedic program in partnership with the Council on Aging so that we maintain regular in-home outreach with our elder population.
2. To expand the living quarters over the Fire Station that will allow for proper bunk space, shower and locker room facilities based upon the additional full-time staffing needs now in place.
3. To finish the basement Training Room in the Fire Station to allow for bathroom facilities.
4. To expand the training capabilities of the Department so that we have a more vibrant and meaningful participation with the Barnstable County Technical Rescue Team.

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Department of Public Works**

Jay Norton, DPW Director

**Department-specific Objectives: *for my department for FY23 (Update)***

1. Renovate/Upgrade HVAC system at Fire Department. **(In progress)**
2. Replace HVAC system components at the Adult Community Center (ACC) **(In progress)**
3. Commence engineering/design/permitting for Briar Lane Culvert replacement **(In progress)**
4. Implement roadway improvements and drainage upgrades for Lieutenant Island Road **(In progress)**
5. Conduct salary/rate analysis of DPW employees and formalize job descriptions **(Not completed – will move to FY 26)**
6. Appropriate funding and initiate software upgrades/additions for DPW including GIS **(Completed early – was in FY 24)**

**Department-specific Objectives: *for my department for FY24***

1. Commence construction of Briar Lane Culvert
  2. Implement new software systems for Facilities and Fleet management (Funding appropriated at 2023 ATM)
  3. Replace DPW generator (we were awarded a grant through MEMA on this)
  4. Upgrade outside bathrooms at Town Hall and install outdoor water refill station
  5. Replace (5) garage doors at FD (funding appropriated at 2023 ATM)
  6. Replace swap shop at the Transfer Station
-

### **Department-specific Objectives: *for my department for FY25***

1. Appropriate funding and initiate replacement of DPW salt shed
2. Appropriate funding for beach bathroom upgrades at 1 facility
3. Replace vinyl siding and paint trim at Town Hall
4. Conduct engineering feasibility study for the Transfer Station to review current operations and layout and provide recommendations for improvements to increase efficiency, services and safety.
5. Commence construction at Keller's Corner and Powers Landing for stormwater and parking lot improvements

### **Department-specific Objectives: *for my department for FY26***

1. Based on outcomes from feasibility study from T/S, appropriate funds to renovate and make operational upgrades to increase efficiency and safety (Including but not limited to, the swap shop, a new equipment storage building, new canopy and guardshack, etc.)
2. Initiate/appropriate funding bathroom upgrades at 1 beach facility
3. Conduct salary/rate analysis of DPW employees and formalize job descriptions prior to Teamsters union negotiations
4. Initiate mayo creek causeway and culvert upgrade project
5. Door replacement and key fob implementation at DPW facility

**\*Including but not limited to: Herring River Restoration project, Rt 6/Main Street Intersection Project, Rt 6 Pavement Preservation Project, Truro/Wellfleet Rt 6 Shared use path project, Rt 6/Lawrence Road project, Maurice's Campground master plan and 95 Lawrence Road affordable housing project milestones are not included as part of the DPW goals and Objectives due to their complicated and complex nature. We will stay heavily involved with these projects until completion and beyond. The staff time required for these projects is considerable.**

**FY 2024-2026 Town-wide Policy Goal-Setting  
PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

**[Click here and type department/board name]**

Victor Staley, Interim Building Commissioner, Building Department

**Department-specific Objectives: *for my department for FY24***

1. Review Building Department Fee Schedule and submit to Selectboard for any proposed changes.
2. Streamline Building Permit process in accordance with the State Building Code.
3. Obtain support of the Administration to create budget for FY25 to implement an online Permit program to include Building, Electrical, Gas and Plumbing Permits.
4. Perform employee reviews and develop continuing education opportunities.
- 5.

**Department-specific Objectives: *for my department for FY25***

1. Implement a Permit software program to include Building, Electrical, Gas and Plumbing.
2. Work with Planning Board and Town Administration to develop better Zoning enforcement procedures.
3. Obtain bids to electronically archive Building Department records.
- 4.
- 5.

**Department-specific Objectives: *for my department for FY26***

- 1.
  - 2.
-

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Community Services**

Suzanne Grout Thomas – Community Services Director

**Department-specific Objectives: *for my department for FY24***

1. Complete feasibility study funded at ATM23 for addition/improvement at ACC
2. Advertise, interview and hire a Building and Grounds/Driver for the ACC
3. Complete the enhancement of the garden in front of and behind the ACC
4. Participate in the Bathroom replacement plan for LeCounts, White Crest, Newcomb Hollow and Gull Pond
5. Apply for CPC funding for planning and construction of a half mile handicapped accessible walkway adjacent to the ACC

**Department-specific Objectives: *for my department for FY25***

1. Create plans for addition to the ACC based on feasibility study findings
2. Replace the elderly RAV4 with a newer, larger capacity vehicle
3. Construct new public bathroom/lifeguard storage at White Crest
4. Create new bathroom/lifeguard storage at Newcomb Hollow
5. Replace comfort station at LeCount Hollow with portable toilets and appropriate shelter and Lifeguard storage

**Department-specific Objectives: *for my department for FY26***

1. Replace bathrooms at Gull Pond and create additional storage for Swimming lessons
  2. Replace the Transit Van at the ACC with a 10 passenger vehicle
  3. Obtain funding for the addition at the ACC
  4. Replace the Beach pick up truck
-

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Town Clerk/ Elections**

Jennifer Congel-Town Clerk

**Department-specific Objectives: *for my department for FY24***

1. Organization of the office & vault & storage areas.
2. Continued training of the Assistant Town Clerk
3. Develop a plan for digitization of permanent / historic records
4. Ongoing training for the Assistant Town Clerk on current procedures.
5. Training for both of us on new systems from the Secretary of the State's database,  
As well as a new roll out of the State's vital records database, and opengov.

**Department-specific Objectives: *for my department for FY25***

1. Starting fall of 2023, organize and prepare for a Presidential election cycle. 3 State elections & 1 ATM
2. Explore ideas for physical storage of permanent records.
- 3.
- 4.
- 5.

**Department-specific Objectives: *for my department for FY26***

- 1.
-

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Shellfish Department**

Nancy Civetta, Shellfish Constable

### **Department-specific Objectives: *for my department for FY24***

1. Educate Town staff and committees to ensure that the importance of the shellfishery is represented and respected and that decision-making takes this into consideration to protect shellfishing today and into the future. In 2022, it was a \$9.5+M industry, and it is the largest year-round economic contributor to the Town, supporting at least 10 percent of the Town's population.
2. Apply for an amended Chapter 91 License and Water Quality Certification from the state to expand our permit to be able to cultch all areas of Wellfleet Harbor that have been traditionally cultched and where we know cultch will successfully perform as oyster nursery habitat.
3. Continue conducting thorough enforcement of Town of Wellfleet regulation 7.12 Evidence of Productivity: Use it or Lose It on the 100-plus farms that operate in Wellfleet to make sure productivity minimums are being met and that the Selectboard has a chance to review non-compliant farms for potential return to the town for a lottery.
4. Work with Rights of Public Access Committee, Town Administration and Town Counsel to exert Town rights to shellfishing access and broker agreements with private landowners, where appropriate, to guarantee shellfishing access in perpetuity. (See SB Goal 4. Public Access, Obj. g.)
5. Find a way to get a workshop for the Shellfish Department. We need our own space to make aquaculture gear, conduct other building projects and keep our tools and gear secure and out of the weather. (See SB Goal 3. Built & Natural Environment, Obj. z.)

### **Department-specific Objectives: *for my department for FY25***

1. Explore ways to better manage and communicate with recreational shellfishery, capture landings and provide ROI data to Selectboard. Continue educational and enforcement procedures to ensure accountability and compliance with regulations in the recreational shellfishery.
-



2. Further streamline grant oversight operations and continue inspections and monitoring to raise the level of compliance. Develop systems for better tracking grant oversight and compliance with Town and State regulations.
3. Ensure Wellfleet does not lose shellfish harvesting opportunities due to changing Federal and State regulations. Participate in state forums to ensure the long-term success of home rule for shellfishing and that the ownership of inter-tidal bottom continues to remain with the Town.
4. Utilize the Watershed Permit Application that the Clean Water Committee is developing to continue the shellfish industry's growth over the last fifteen years by increasing funds available to us for activities to enhance wild shellfish populations throughout the harbor through a series of heavily propagated rotating closure areas.
5. Continue open communication with both commercial and recreational shellfishermen and shellfish farmers to understand what their needs are from the department and how we can better serve them and improve shellfishing in the harbor.

**Department-specific Objectives: *for my department for FY26***

1. Find partners with which to explore and conduct appropriate studies of shellfish diseases, especially regarding detection and prevention.
2. Continue increasing our propagation output by identifying new ways to heavily propagate certain areas of the harbor that demonstrate good shellfish survival in order to create productive and self-sustaining wild shellfish populations.
3. Continue to explore grant funding to supplement our propagation efforts and other department activities.
4. Continue open communication with both commercial and recreational shellfishermen and shellfish farmers to understand what their needs are from the department and how we can better serve them and improve shellfishing in the harbor.

**FY 2024-2026 Town-wide Policy Goal-Setting**  
**PROPOSED DEPARTMENT GOALS AND OBJECTIVES**

---

## **Harbormaster & Marina**

William Sullivan-Harbormaster

**Department-specific Objectives: *for my department for FY24***

1. Get Approval & Hire Administrative Assistant
2. Get the Municipal Fueling Computer Kiosk running to facilitate the fueling of municipal vehicles with more involvement from the Finance team.
3. Outsource for managing and maintenance of bath houses.
4. Rebuild and Update the Finger piers on the outboard section of our docks.
5. Design and Begin to Contract Comprehensive Plan.

**Department-specific Objectives: *for my department for FY25***

1. Work with Consultants with the plan and design of aspects of the Comprehensive Plan, such as the L-Pier, Harbormaster building, Marina use and layout.
  2. Reseal and Waterproof Harbormaster Building, seal weak points prone to flooding in rain.
  3. Construct and Implement Dredging Maintenance Plan
  4. Continual Rehabilitation of Docks, Waterlines and Electric Lines.
  5. Update and Reconfigure system used to book transient moorings to ensure more intuitive booking system
-

**Department-specific Objectives: *for my department for FY26***

1. Begin Implementation and Execution of Comprehensive plan
2. Update Pier camera system
3. Continue Maintenance Dredging
4. Work with the State to improve, streamline and maintain the boat ramp
5. Continue to maintain facilities and equipment



## SELECTBOARD

AGENDA ACTION REQUEST  
Meeting Date: July 18, 2023

V

### BUSINESS

~ E ~

<b>REQUESTED BY:</b>	Selectboard
<b>DESIRED ACTION:</b>	To Review, insert, and recommend warrant articles for special town meeting
<b>PROPOSED MOTION:</b>	I move to insert and recommend the _____ Article into the special town meeting warrant.
<b>Summary:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____

## **ARTICLE NO. XX – TOWN PLANNER:**

To see if the Town will vote to raise and appropriate and/or transfer from any available source of funds the sum of \$145,000.00, or any other sum for the purpose of funding a Town Planner position; provided, however, that no sums shall be expended hereunder unless and until the Town has voted to assess an additional \$145,000.00 in real estate and personal property taxes pursuant to the provisions of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½), or do or act on anything thereon.

(Requested by the Selectboard)

### **Majority Vote Required**

**SUMMARY:** This article would fund the cost of hiring a Town Planner, including salary and benefits. The lack of a dedicated Town Planner is severely impacting the town's ability to address land use and long-range planning. Planning is one of the tasks assigned to the Assistant Town Administrator. The Assistant Town Administrator position is overburdened regardless of who the Assistant Town Administrator and that results in initiatives and committees not receiving the support they need. A Town Planner is essential for Wellfleet to form a functional administration. The lack of dedicated Town Planner results in the burnout of staff. Wellfleet needs to address its underinvestment in the professional positions that are essential to governing. A dedicated Planner would support the Building Commissioner and the ZBA in zoning enforcement, assist in developing bylaws, the development of housing initiatives and programs.



**SPECIAL TOWN MEETING  
Monday September 18, 2023  
6:00 PM**

**at**

**Wellfleet Elementary School  
100 Lawrence Road, Wellfleet, MA  
&**

**SPECIAL TOWN ELECTION  
Tuesday September 26, 2023  
at .**

**12:00 Noon to 7:00 PM  
Wellfleet Senior Center  
715 Old King's Highway**

**v.1**

## TABLE OF CONTENTS

<b>Special Town Meeting Warrant Booklet Index</b>
---

<b>FINANCIAL &amp; PROPOSITION 2 ½ TERMS</b>			
<b>TOWN MEETING PROCEDURES</b>			
<b>FINANCE COMMITTEE STATEMENT</b>			
<b>ANNUAL TOWN MEETING WARRANT</b>			
<b>SECTION I: FINANCIAL ARTICLES</b>			
Article No.	Article	Sponsor	Page No.
1	<b>FY2023 Prior Year Invoices</b>	<b>Selectboard</b>	
2	<b>FY2024 Budgetary Transfers</b>	<b>Selectboard</b>	
3	<b>95 Lawrence Road – Phase I Wastewater Treatment Facility</b>	<b>Selectboard</b>	
4	<b>Enhanced Innovative &amp; Alternative Septic Program</b>	<b>Selectboard</b>	
5	<b>Maurice’s Campground – Housing Planning Funds</b>	<b>Selectboard</b>	
<b>SECTION II: BYLAWS, INITIATIVE PETITIONS</b>			
6	<b>Zoning Bylaw Amendment – Inclusionary Zoning</b>	<b>Selectboard</b>	
7	<b>Zoning Bylaw Amendment – Cottage Colonies</b>	<b>Selectboard</b>	
8	<b>Zoning Bylaw Amendment – Intensity of Use of Multi-Family Dwellings</b>	<b>Selectboard</b>	
9	<b>Zoning Bylaw Amendment – Developments of Significant Planning Interest and Food Establishments</b>	<b>Selectboard</b>	
10	<b>Zoning Bylaw Amendment – Definition of Trees</b>	<b>Selectboard</b>	
11	<b>Zoning Bylaw Amendment – Cutting of Timber</b>	<b>Selectboard</b>	
12	<b>Zoning Bylaw Amendment – Landscape and Tree Preservation</b>	<b>Selectboard</b>	
13	<b>Zoning Bylaw Amendment – Locally Notable Trees</b>	<b>Selectboard</b>	

<b>14</b>	<b>Zoning Bylaw Amendment – Zoning Enforcement Penalty</b>	<b>Selectboard</b>	
<b>15</b>	<b>General Bylaw Amendment – Miniature “Nip” Bottle Ban</b>	<b>Wellfleet Recycling Committee</b>	
<b>16</b>	<b>General Bylaw Amendment – Animal Control Regulations</b>	<b>Selectboard</b>	
<b>SECTION III: UNCLASSIFIED ARTICLES</b>			
<b>17</b>	<b>Environmental Betterment Fund</b>	<b>Selectboard</b>	
<b>SECTION III: STANDARD CLOSING ARTICLES</b>			
<b>18</b>	<b>Reports of Boards and Committees</b>	<b>Selectboard</b>	
<b>19</b>	<b>Other Business</b>	<b>Selectboard</b>	



## FINANCIAL & PROPOSITION 2½ TERMS

Chapter 59, section 21C of the Massachusetts General Laws is commonly referred to as Proposition 2½ (Prop. 2½) or the Tax Limiting Law for Cities and Towns in Massachusetts.

**LEVY:** The property tax levy is the revenue a Town can raise through real and personal property taxes. The property tax levy is the largest source of revenue for the Town.

**LEVY CEILING:** This is the maximum the levy can be. The ceiling equals 2.5% of the Town's full and fair cash value. The levy ceiling is equivalent to a tax rate of \$25.00.

**LEVY LIMIT:** The maximum the levy can be in a given year. The limit is based on the previous year's levy limit plus certain allowable increases, such as debt exclusions.

**LEVY LIMIT INCREASE:** The levy limit automatically increases each year by 2.5% of the previous year's levy limit.

**NEW GROWTH:** New construction and new parcel subdivision may also increase the Town's levy limit.

**OVERRIDE:** A community can permanently increase its levy limit by successfully voting at a referendum to exceed the limits. A community may take this action as long as it is below the levy ceiling.

**DEBT EXCLUSION:** This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the Town's levy limit is increased only for the amount voted at the referendum for the life of that debt only. The levy limit increase may exceed the Town's levy ceiling.

**DEBT SERVICE:** The repayment cost, usually stated in annual terms and based on an amortization schedule, of the principal and interest owed on any particular bond issue.

**ENCUMBRANCE:** A reservation of funds to cover obligations chargeable to but not yet paid from a specific appropriation account.

**CAPITAL OUTLAY EXPENDITURES EXCLUSION:** This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling only for the year in which the project is being undertaken.

**CONTINGENT VOTES:** Chapter 59, section 21C (m) permits a Town Meeting to appropriate funds contingent upon passage of a referendum question (OVERRIDE/DEBT EXCLUSION). A contingent vote does not automatically result in an override referendum. An override referendum can only be called by the Selectboard. If a referendum is called by the Selectmen, it must take place within forty-five days of the Town Meeting vote.

## TOWN MEETING PROCEDURES

A quorum of 6% of the Town's registered voters must be present to conduct business (Charter: Sect. 2-1-3).

Voters are identified by voter cards issued when they check in with the registrars at the beginning of the meeting.

Only voters may participate in voice votes. In case of a counted vote, voters will be identified by their voter cards.

Non-voters who have been admitted to the meeting must sit in the section designated for them. Non-voters who may wish to speak must identify themselves and may address the meeting only by permission of the Moderator (Charter: Sect. 2-1-2).

No voter will be allowed to speak until recognized by the Moderator.

Voters and others recognized to address Town Meeting may only speak twice to any motion or amendment unless authorized by the Moderator (Charter: Sect. 2-7-8).

All motions or amendments must be in writing and be legible. Exceptions for very simple motions or amendments are at the discretion of the Moderator (General Bylaws: Sect. II-2).

The order of consideration of the Articles as printed in the Warrant may be changed only by a 2/3 majority vote (Charter: Sect. 2-7-4).

A motion for indefinite postponement, if passed, ends any action on the motion currently being debated. It may only be made after a voter has been recognized and may not come at the end of a speaker's remarks. It is fully debatable to the same extent as the main motion under consideration.

A motion to end debate (known as a "motion for the previous question") may only be made by a voter who has been recognized. Anonymous calls from voters to "call the question" are out of order and will be ignored by the Moderator. A motion to end debate requires a separate 2/3 majority vote, so it may be more efficient to hear from one or two more speakers and then proceed to a vote on the main motion itself.

A motion to reconsider must be made at the same session as the vote it seeks to reconsider. It can only be made after some intervening business and must be made within one hour of the vote to be reconsidered (Charter: Sect. 2-7-9). It is debatable to the same extent as the motion it seeks to reconsider and requires a majority vote. A motion to reconsider will only be allowed if there is new information that was not available at the time of the original debate. A motion to reconsider will be ruled out of order if, in the judgment of the Moderator, it is simply an attempt at "another bite at the apple."

Some other common motions which require more than a simple majority to pass:

<b>Zoning bylaws</b>	<b>2/3 majority (with some statutory exceptions)</b>
<b>Zoning bylaws subject to Housing Choice Act</b>	<b>majority</b>
<b>To authorize borrowing or incur debt</b>	<b>2/3 majority</b>
<b>To transfer or sell Town land</b>	<b>2/3 majority</b>
<b>To approve proposed Charter amendments</b>	<b>2/3 majority</b>
<b>To pay unpaid bills of a prior fiscal year</b>	<b>4/5 majority at an Annual Town Meeting 9/10 majority at a Special Town meeting</b>

**FINANCE COMMITTEE STATEMENT**

**XXXX**

**SPECIAL TOWN MEETING WARRANT**

Monday, September 18, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet in the Wellfleet Elementary School, 100 Lawrence Road in Wellfleet on the 18<sup>th</sup> day of September 2023, at **six** o'clock in the evening, then and there to vote upon the following Articles:

**SECTION I: BUDGET ARTICLES**

**ARTICLE NO. 1 – PRIOR YEAR INVOICES:**

To see what sum the Town will vote to transfer from available funds for the purpose of paying prior year unpaid bills listed below:

	Vendor	Source	Line-item	Amount
a.	XXX	xxx	xxx	\$0.00
	<b>Grand-total</b>			<b>\$0.00</b>

or to do or act on anything thereon.

(Requested by the Selectboard)

**Nine-Tenths Vote Required**

**Recommendations:**

**Selectboard:**

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

**Finance Committee: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** Invoices received after the close of the fiscal year for services rendered or goods received prior to July 1 are considered prior year bills. Per MGL Chapter 44 Section 64, prior year bills to be paid from the Town’s general operating fund may only be paid by a vote of Town Meeting.

**ARTICLE NO. 2 – FY 2024 BUDGETARY TRANSFERS:**

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within FY 2024 appropriations such sums of money necessary to supplement the operating budgets of the various Town Departments as follows:

	From (Decrease)	Line Item	To (Increase)	Line Item	Amount
a.	XXX	###	xxx	###	\$ 0.00
	<b>Grand-Total</b>				<b>\$ 0.00</b>

or to do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes- 0, No – 0, Abstain – 0.**

**Recommend Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This article is seeking permission to transfer funding within the FY 2024 operating budget ending June 30, 2024. We have shortfalls in various departmental budgets that will be remedied by transferring monies from those areas within the budget that have surpluses.

**ARTICLE NO. 3 – 95 LAWRENCE ROAD – WASTEWATER TREATMENT FACILITY – PHASE I:**

To see if the Town will vote to appropriate a sum of money, not to exceed \$3,500,000 for the purpose of, designing, permitting, and constructing of wastewater facilities in conjunction with an Affordable Housing Project at 95 Lawrence Road, including connecting nearby Town buildings in Phase I, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen be and hereby is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** The Town is contractually obligated as part of the 95 Lawrence Rd Housing Project’s Request For Proposals to provide for advanced wastewater treatment facilities located at this site. The plan is to install a cluster system servicing both the housing project and the Wellfleet Elementary School, the Police Station, and Fire Station in Phase I. Connecting these town-owned buildings will result in a net improvement of water quality in the neighborhood even after accounting for the housing project. Phase II is planned to connect a number of the surrounding properties to this system which will cost significantly less money than individual septic system upgrades, a centralized sewer system, or any other means evaluated.

There is already borrowing authorization of \$1.932 million dollars from Annual Town Meeting in June of 2021. This borrowing request will supersede the previous borrowing authorization allowing the Town to seek competitive borrowing from the State Revolving Fund and open the door for grant subsidies from

the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 25% of the project cost.

**ARTICLE NO. 4 – ENHANCED INNOVATIVE & ALTERNATIVE SEPTIC PROGRAM:**

To see if the Town will vote to appropriate a sum of money, not to exceed \$450,000 to assist in the installation of high performance, so called “enhanced” Innovative & Alternative (I&A) Septic Systems within the Wellfleet Harbor Watershed,, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen be and hereby is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This would allow the Board Health to provide assistance to homeowners who need to replace their septic system. This Assistance corresponds with the incremental cost of enhancement to upgrade to an “enhanced” IA system. Upgrading these systems to high performance I&A systems can reduce nitrogen similar to the levels obtained with a wastewater treatment plant, thereby improving the groundwater quality and reducing the nutrient loading of Wellfleet Harbor at a significantly reduced cost compared with sewer connection. The funding sought is a \$12,500 grant to property owners to pay for the additional costs to upgrade to one of these “enhanced” IA systems when their pre-existing system is required to be upgraded. This grant would keep the cost of the septic the same as what is already required under title 5 and will encourage the use of an enhanced IA system. Upgrading septic systems will be a critical element in addressing the Town’s wastewater needs.

There is already a total borrowing authorization of \$450,000 dollars from Annual Town Meeting in June of 2021 and April of 2022. This borrowing request will supersede the previous borrowing authorization adding language that allows the Town to seek competitive borrowing from the State Revolving Fund and open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 50% for projects costing less than \$1 million dollars.

**ARTICLE NO. 5 – MAURICE’S CAMPGROUND – HOUSING PLANNING FUNDS:**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$xx,xxx.00, or any other sum, for the purpose of hiring a consultant to assist the Maurice Planning Committee in Housing related services including preparing a scope of work, bid documentation, and an estimated project cost associated with the development of Maurice’s Campground, or to do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**Finance Committee: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY: XXX**

**SECTION II: BYLAWS, INITIATIVE PETITIONS**

**ARTICLE NO. 6 – ZONING BYLAW AMENDMENT – INCLUSIONARY ZONING:**

To amend Chapter 235, Article II DEFINITIONS by inserting the following definitions in alphabetical order and to amend Chapter II by adding a new Section 6.28 Inclusionary Zoning Bylaw as follows:

**§235 - 2.1 Definitions**

Affordability Gap – the difference between the appraised value of a market-rate dwelling units within the proposed development and the appraised value of an affordable housing unit in Wellfleet comparable to the market-rate unit in terms of type, size and number of bedrooms and calculated at the time of sale or issuance of a certificate of occupancy, whichever occurs sooner, for any market-rate unit in the proposed development .

Affordable Housing Unit - a dwelling unit that is affordable to and occupied by a Low- or Moderate- Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory maintained by the Department of Housing and Community Development.

Affordable Housing Restriction – A deed restriction entered into and enforceable under G.L. c. 184, §§31-33 in a form acceptable to the Town that restricts occupancy of an affordable housing unit to a low- or moderate- income-eligible purchaser or renter and which provides for the administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law.

**§235 – 6.28 INCLUSIONARY ZONING BYLAW**

**§235 – 6.28.1 Purpose and Intent**



The purpose of this bylaw is to encourage development of housing that is affordable to persons of various age and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” bylaws for the creation of affordable year-round housing, and for the purposes of:

- A. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and
- B. Encouraging the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Wellfleet residents;
- C. Mitigating the negative impact of residential development on the availability and cost of housing;
- D. Protecting the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land;
- E. Creating dwelling units eligible for inclusion on the Town’s Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

### **§235 6.28.2 Applicability**

In the CD, R1, R2, C and C2 zoning districts, the inclusionary zoning provisions of this section shall apply to any project that results in a net increase of three or more dwelling units as part of a single application, whether by new construction, a change in use, or by the alteration or rehabilitation of existing structures, provided, however, this bylaw shall not apply to nursing homes

### **§235 6.28.3 Mandatory Provision of Affordable Housing for Development of New Residential Units**

In order to contribute to the local stock of Affordable Housing, any residential project that results in a net increase of three or more dwelling units as part of a single application as described in Section 6.28.2 shall provide a percentage of the dwelling units as deed restricted Affordable Housing units. This Affordable Housing requirement shall be one-sixth (16.67%) of the number of new dwelling units to be developed rounded up to the nearest whole number and shall be made a condition of a Special Permit, or the applicant shall meet the requirement in accordance with the following:

- A. Development of 3 to 6 new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and a Payment in Lieu of providing the required number of affordable units to be made to the Wellfleet Affordable Housing Trust Fund to fulfill the Affordable Housing requirement.
  - (1) Payment shall be made in accordance with the following formula:
    - For 3-4 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(67%)
    - For 4-6 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(100%)
  - (2) The applicant shall pay for all appraisals, and the Town shall approve the applicant’s chosen appraiser
  - (3) The Payment in Lieu shall be due:
    - a. upon the issuance of a certificate of occupancy of any unit in the development;  
or,
    - b. The total Payment in Lieu shall be divided by the total number of market rate units in the development, and the resulting quotient shall be payable upon the closing of each market rate unit

- B. Development of 7 or more new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and at least one-sixth (16.67%) of the new units created shall be established as Affordable Housing units in any one or combination of methods provided for below:
- (1) The Affordable Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with §235 Section 6.28.4; or
  - (2) The Affordable Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with §235 6.28.4, provided justification is provided that on-site development of units is not feasible and off-site development of units is beneficial to the Town, and applicable Building or Zoning Permits are granted contemporaneously for both developments; or
  - (3) A Payment in Lieu of providing Affordable Housing units shall be made to the Wellfleet Affordable Housing Trust Fund. Payment shall be made in accordance with the following formula:
    - a) For 7 or more new dwelling units, the Payment in Lieu = (total # of new dwelling units)x(16.67%)x(affordability gap)x(150%)
    - b) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
    - c) The Payment in Lieu shall be made at and upon the sale or certificate of occupancy of each unit, whichever occurs sooner. When the development consists of year-round rental units, memorialized in the affordable deed restriction which states that the Payment in Lieu shall be deferred until such time as the year-round rental use ceases, with the full balance due upon change of use at current market rate; or
  - (4) A Land Donation in Lieu of providing Affordable Housing units shall be provided to the Wellfleet Affordable Housing Trust, provided that:
    - a) The receiving organization agrees in writing to accept the land; and
    - b) The applicant demonstrates to the Zoning Board of Appeals' satisfaction that the land serves the future development of Affordable Housing; and
    - c) The value of donated land shall be equivalent to or greater than the value of the required Payment in Lieu. The Zoning Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Zoning Board of Appeals may obtain expert peer review of the appraisal at the applicant's expense; and
    - d) Closing on the land donation shall occur before the issuance of the first building permit.

**§235 6.28.4 Provisions Applicable to Affordable Housing Units Located On-Site and/or Off-Site**

- A. Affordable Housing units created in accordance with this bylaw shall have a deed restriction and Regulatory Agreement to regulate the future re-sale or rental of the unit and that requires the units to remain income restricted in perpetuity or the longest period allowed by law. Said deed restriction and Regulatory Agreement shall be consistent with the forms used in the Local Initiative Program and Regulatory Agreement approved by DHCD. The Regulatory Agreement shall be prepared in a form acceptable to Town Counsel by the Applicant and submitted for review and approval. The Regulatory Agreement will be executed by the Applicant, the Town of Wellfleet and DHCD and shall be recorded with the Barnstable County Registry of Deeds or and

- B. The applicant shall be responsible for preparing and submitting any documentation that may be required to receive Local Action Unit approval from DHCD and to qualify the Affordable Housing Units for listing on the SHI. The applicant shall also be responsible for providing annual compliance monitoring and certification to the Town or its monitoring agent and to pay for the costs of the Town for providing such compliance monitoring.
- C. No Building Permit shall be issued for any units in the development until the Zoning Board of Appeals receives evidence that the Affordable Housing deed restriction has been approved by DHCD or by Town Counsel.
- D. No Certificate of Occupancy shall be issued for any units in the development until the Building Commissioner receives evidence that the Affordable Housing deed restriction has been executed and recorded at the Barnstable County Registry of Deeds or that the Payment in Lieu has been made in accordance with this bylaw or as modified by the Special Permit conditions.
- E. Affordable Housing units shall be integrated with the rest of the development or with the off-site location and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- F. The number of bedrooms in each Affordable Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Zoning Board of Appeals in consultation with the Wellfleet Housing Authority.
- G. Owners and tenants of on-site Affordable Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.
- H. The development of Affordable Housing units shall take place at the same rate and timeframe as the development of market rate units.
  - 1) Building Permits for any phased development shall be issued at a ratio of no greater than five (5) market rate units to one (1) Affordable Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
  - 2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable Housing units are occupied.

**§235 6.28.5 Maximum Incomes and Selling Price: Affordable Housing Inventory**

Maximum rents and/or sale price shall not exceed 30% of an occupant's or tenant's annual income for a household at or below 80% of Area Median Income adjusted by household size.

**§235 6.28.6. Segmentation Prohibition**

Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. "Segmentation" shall be defined as subdividing one parcel of land into two or more parcels of land in such a manner that each parcel can support only a single dwelling unit or phased development that cumulatively results in a net increase of three or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section.

**§235 6.28.7 Conflict with Other Bylaws**

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**§235 6.28.8 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 Wellfleet's Zoning Bylaws.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY: XXX**

**ARTICLE NO. 7 – ZONING BYLAW AMENDMENT – COTTAGE COLONIES:**

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II DEFINITIONS as follows:

§235 - 2.1 Definitions

Cottage Colony - A group of two or more detached dwellings located on the same lot not within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. Each unit shall contain not less than ~~550~~ **300** sq. ft. of floor area and not more than ~~768~~ **800** sq. ft.

Cottage Colony NSP - A group of two or more detached dwellings located on the same lot within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. and occupied on a seasonal basis only. Seasonal shall be defined as a period commencing April 1 of each calendar year and terminating November 30 of the same calendar year. Each unit shall contain not less than ~~550~~ **300** sq. ft. of floor area and not more than ~~768~~ **800** sq. ft

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** The changes in floor area bring a number of the pre-existing cottage colonies into compliance with zoning. 250 sq ft of floor area is the minimum allowed for two people to reside in per state codes. Wellfleet has a number of cottages in colonies that are well below 550 sq. ft. An example is Brownies cabins out of a total of thirteen cottages, nine are below 550 sq. ft. This would also enable a property owner to build a cottage colony with modest structures that could serve as homes for those just starting on their own or are looking to downsize. The change from 768 sq ft to 800 sq ft is a reflection that

there are cottage colonies where there are units that are slightly over 768 sq. ft. 800 sq ft also is a standardized size that is easy to measure. Cottage Colonies would remain permitted by special permit only in the districts they are currently allowed in.

**ARTICLE NO. 8 – ZONING BYLAW AMENDMENT – INTENSITY OF USE OF MULTI-FAMILY DWELLINGS:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by deleting the text that is struck-through as follows, or to do or act on anything thereon:

**A. By Amending Chapter 235 Section 5.4.5 Intensity of Use Application to Multiple Family Dwellings by striking the section:**

**~~5.4.5 Intensity of Use Application to Multiple Family Dwellings~~**

~~The first unit of a multiple family dwelling or of an apartment building shall require a minimum land area equal to the lot requirements of the district in which located. Each additional unit will require 8,000 square feet of land area. Front, side and rear yard and maximum building coverage requirements of the district in which the structures located shall apply. (Amended 4/30/85 ATM, Art. 64.~~

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** Multifamily Dwellings are allowed by special permit in the Commercial District. The minimum lot size in the commercial district is 40,000 square feet. The requirement to have an additional 8,000 sq ft effectively prohibits multifamily housing on a significant proportion of lots in the Commercial District and limits the number of potential dwellings as well. This does not change the number of bedrooms allowed on a parcel, just how they are configured. The intent here is to provide a greater opportunity for diversity in Wellfleet’s housing stock to better suit the needs of our population.

**ARTICLE NO. 9 – ZONING BYLAW AMENDMENT – DEVELOPMENTS OF SIGNIFICANT PLANNING INTEREST AND FOOD ESTABLISHMENTS:**

To see if the Town will amend the Wellfleet Zoning By-Laws by repealing the existing Chapter 235 - Section 6.29, Fast Food & Formula Restaurant Prohibition and replacing it with a new Chapter 235 - Section 6.29, Development of Significant Planning Interest and Food Service Establishments and by amending Chapter 235 -Sections 2.1, 5.3, and 8.4.2. by inserting text shown as underlined and deleting text that is ~~struck through~~ as follows, or take any action related thereto:

A. By amending Chapter 235 – Article II – Section 2.1 DEFINITIONS by inserting in alphabetical order new definitions for “Development of Significant Planning Interest.” “Food Establishment: Bakery,”

“Food Establishment: Full-Service Restaurant,” “Food Establishment: Take-Out Restaurant,” “Food Establishment: Fast Food Restaurant,” and “Food Establishment: Drive-through Facility” and deleting the definitions of “Restaurant,” “Restaurant Drive-In,” “Restaurant Fast Food” and “Restaurant, Formula” as follows:

Development of Significant Planning Interest: Any of the Food Establishment categories defined in this By-law, Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse, or Other Commercial Developments involving more than 2,500 square feet of floor area, or Commercial Developments in the Central District.

**Food Establishment: Bakery** - A commercial food service establishment primarily engaged in the preparation and retail sale of baked goods for consumption on or off the premises. A bakery may include, as an accessory use, wholesale distribution of goods prepared on the site.

**Food Establishment: Ice Cream Parlor** - An establishment where the primary activity is the retail sale of ice cream, frozen yogurt and/or similar products for consumption on or off the premises; provided, however, that this definition shall not apply to restaurants where such ice cream, ices, or beverages are sold and consumed in connection with the serving of meals.

**Food Establishment: Full-Service Restaurant** – A commercial food service establishment where (1) meals are primarily freshly cooked and prepared to order on-premises and are served primarily for consumption on the premises, either indoors or outdoors; (2) customers may be provided with individual menus; (3) a restaurant employee serves the customers at the same table or counter where the meals are consumed. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Full-Service Restaurant operation may include ancillary bakery, delivery service and/or take-out service but may not include a drive-through facility.

**Food Establishment: Take-Out Restaurant** – A commercial food service establishment where (1) food is primarily freshly cooked or prepared on site by employees; (2) food and beverages are sold in disposable containers for off-premises consumption only; (3) the customers pick up their orders either at a counter inside the building or at a walk-up window. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Take-Out Restaurant operation may include an ancillary delivery service but may not include a Drive-through facility.

**Food Establishment: Fast Food Restaurant** - A commercial food service establishment whose principal business is the sale of food and beverages served pre-packaged and ready-to-eat or quickly prepared upon a short waiting time and packaged and presented in such a manner that it can readily be eaten on or off the premises, characterized by high sales volume and frequent customer turnover. Meals and beverages that are not cooked or prepared fresh on the premises are served, principally in disposable containers. For purposes of this definition, “prepared” does not include warming or reheating food that was assembled off-site. For purposes of this bylaw, Food Establishment: Fast Food Restaurant shall not include Food Establishment: Bakeries or Food Establishment: Ice Cream Parlor as defined herein.



**Food Establishment: Drive-through Facility** – A drive-up window or a mechanical device where customers waiting in motor vehicles may order and/or pick up prepared food and beverages from a food service establishment.

**Restaurant**—A building or part thereof to be used for the preparation, indoor sale, and consumption of meals and refreshments on the premises. Seating area for a restaurant may include open or outdoor terrace or patio upon issuance of a Special Permit. ATM 4/23/90

**Restaurant, Drive-In**—Premises where meals and other items of nourishment and refreshment are offered for sale, and where any portion of these are consumed or intended to be consumed off-premises or within cars parked on the premises. ATM 4/23/90.

**Restaurant, Fast Food**—A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles. (ATM 4/25/11)

**Restaurant, Formula**—A restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement or as a franchise to offer any of the following features: Standardized menu, trademark or service mark, defined as a word, phrase, symbol, design or logo, or a combination of words, phrases, symbols, designs and/or architecture, façade, or color scheme that identifies the restaurant as one (1) of twenty-five (25) or more other restaurants worldwide. (ATM 4/25/11)

B. By amending Chapter 235, Section V – Uses, Table 5.3.2 – Commercial, by striking from the table the uses of “**Restaurant, Indoor,**” “**Restaurant Drive-In,**” “**Restaurant Fast Food,**” and “**Restaurant Formula**” and inserting the uses of “**Food Establishment: Bakery**”; “**Food Establishment: Full-Service Restaurant**”; “**Food Establishment: Take Out Restaurant**”; “**Food Establishment: Fast Food Restaurant**”; and “**Food Establishment: Drive-Through Facility**”, which shall be allowed by special permit (A) or prohibited (O) as follows in the various zoning districts:

**5.3.2 Use Regulations:**

5.3.2 Commercial	CD	R1	R2	NSP	C	C2
<b><u>Food Establishment: Bakery</u></b>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<b><u>Food Establishment: Full-Service Restaurant</u></b>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<b><u>Food Establishment: Take-Out Restaurant</u></b>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<b><u>Food Establishment: Fast Food Restaurant</u></b>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>

<b><u>Food Establishment: Drive-through Facility</u></b>	<u>○</u>	<u>○</u>	<u>○</u>	<u>○</u>	<u>○</u>	<u>○</u>
<b><u>Food Establishment: Ice Cream Parlor</u></b>	A	○	○	○	A	
<b><u>Restaurant, Indoor<sup>8</sup></u></b>	A	⊖	⊖	⊖	A	⊖
<b><u>Restaurant, Drive-In<sup>9</sup></u></b>	⊖	⊖	⊖	⊖	A	⊖
<b><u>Restaurant, Fast Food<sup>10</sup></u></b>	⊖	⊖	⊖	⊖	⊖	⊖
<b><u>Restaurant, Formula<sup>11</sup></u></b>	⊖	⊖	⊖	⊖	⊖	⊖

**C. By repealing Chapter 235-Section 6.29 – Fast Food & Formula Restaurant Prohibition in its entirety and replacing it with a new Chapter 235, Section 6.29 - Developments of Significant Planning Interest by inserting the following underlined text:**

**6.29.1-Purpose:**

The purpose of this bylaw is to regulate the location, traffic, scale, impacts, and visual features of Developments of Significant Planning Interest in Wellfleet to maintain the unique, small-scale, small-town character and the quality of life for all Wellfleet residents by preserving the individuality and distinctive appeal which are among the Town’s most recognized features. Preservation of the existing character, diversity, variety, and scale of commercial activities is vital to the continuation of Wellfleet’s ability to attract both residents and visitors. Wellfleet must retain its distinctive Cape Cod character, general welfare, and historical and cultural relevance.

This bylaw incorporates by reference and shall be construed consistently with the policy direction of the Town’s Comprehensive Plan, the Cape Cod Commission Act, the enabling act of the Cape Cod National Seashore, and Wellfleet’s designated historic districts, with which Wellfleet is intimately and intricately associated.

**6.29.2 Application Requirements**

Applicants for Special Permits for uses so controlled as **Developments of Significant Planning Interest** shall submit to the Zoning Board of Appeals three copies of the following:

- a) An application identifying the intended use and narrative description of the proposed use;
- b) A site plan prepared by a licensed architect, licensed landscape architect, or Registered Professional Engineer, showing proposed structures, building design, lighting, drives, parking, landscaping, screening, dust mitigation, and provision for stormwater management and drainage;
- c) A floor plan for all floors, an elevation plan of all sides of the proposed building and a plan or rendering showing the proposed building in relation to adjoining structures and abutting properties;
- d) A plan showing the dimensions, type, location and elevations of all proposed signs; and
- e) photographs of the premises in its current condition and all adjoining structures.



Forthwith upon receipt of the above materials, the Board of Appeals shall transmit one set of them to the Planning Board for their review and recommendation.

### **6.29.3 Special Permits for Development of Significant Planning Interest**

#### **6.29.3.1 Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.**

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit for the following uses: **Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.**

(a) whether the proposed use will increase the intensity of use on the site so as to adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare;

(b) whether the proposed design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district;

(c) whether the proposed design retains the historic characteristics if located within a designated historic district.

(d) whether the proposed design preserves the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.

(e) the use of permeable pavement or pavers for parking areas and walkways ;

(f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated;

(g) whether the proposed use includes the storage or presence of hazardous and/or combustible materials;

(h) the overall impact of the proposed use on the health and safety of area residents.

#### **6.29.4 Food Service Establishments (all) or Other Commercial Developments involving more than 2,500 square feet of floor area, or Any Commercial Developments in the Central District**

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit; provided, however, that the Special Permit Granting Authority shall not require strict compliance with the design criteria contained in this section with respect to food service establishments that are pre-existing nonconforming as of the date of adopting this zoning amendment at the Spring 2023 Annual Town Meeting but may grant waivers when the Special Permit Granting Authority finds such waiver(s) to be in the best interests of the Town or that strict compliance would cause an undue financial hardship to the food service establishment or that strict application of the design criteria would not be consistent with the existing style or character of the pre-existing nonconforming food service establishment:

(a) Whether the proposed use is designed and operated in a manner that preserves the community's distinctive small-town character, including the following:

- (1) the use of natural shingles or clapboards as exterior finishes:
- (2) exterior lighting uses gooseneck or similarly designed fully shielded downward-facing lighting and shall eliminate light trespass onto streets or abutting parcels:
- (3) use of permeable pavement or pavers for parking areas and walkways:
- (4) whether the scale of the building is in keeping with a small-town, coastal setting:
- (5) Preserve the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.
- (6) whether the façade is broken up in terms of color scheme, use of materials and incorporates segments that protrude forward or are recessed to minimize the appearance of massing:
- (7) whether the design is compatible with the character of surrounding properties or the zoning district:
- (8) use of native plantings of a suitable size, diversity and hardiness to survive Cape Cod's climate and minimize use of water, herbicides and pesticides:
- (9) use of small-scale, painted wooden signs that are externally illuminated:
- (10) Whether the business model includes curb-side pick-up or delivery of food or goods to patrons in their vehicles: and
- (11) Accessibility of the development for disabled individuals.

(b) whether the proposed use contributes to the diversity of uses to assure a balanced mix of businesses available to serve residents and visitors:

(c) whether the proposed building design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district:

(d) whether the proposed use will increase the intensity of use on the site so as adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare:

(e) whether the size, style and design of signage is appropriate to maintain the scale and character of Wellfleet:

(f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated:

(g) whether the proposed use includes the storage or presence of hazardous or combustible materials: and

(h) the overall impact of the proposed use on the health and safety of area residents.

#### **6.29.5 Floor Area Applicability**

Any increase in floor area shall be cumulative upon the adoption of this bylaw (ATM 2023).

~~6.29 FAST FOOD & FORMULA RESTAURANT PROHIBITION (ATM 4/25/11) Purpose: The Cape Cod seaside character of Wellfleet is unique, and is important to the people of the community and their collective identity as a community, as well as to the visiting public. Far more than most Cape Cod towns, Wellfleet retains its rural village character, which is integral to the fabric of the community. Wellfleet is also traditionally home to small, locally owned and operated businesses. In these senses, Wellfleet has maintained its identity in a manner rare in the region. The purpose and intent of the Formula Based Restaurant Prohibition is to address the adverse impact (in terms of noise, litter, traffic, and aesthetically inappropriate development) that standardized fast food and formula restaurants would have on Wellfleet's distinctive Cape Cod character, general welfare, and historical and cultural relevance as a rural community. These uses are therefore prohibited in order to preserve and protect the unique and locally oriented community experience of Wellfleet, and all that this offers to its citizens and tourists alike as a treasured destination. This policy is also consistent with the policy direction of the Town's Comprehensive Plan, the Cape Cod 77 Commission Act, and the enabling act of the Cape Cod National Seashore, with which Wellfleet is intimately and intricately associated.~~

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** When Wellfleet adopted both the Formula Business and Fast Food & Formula Restaurant provisions in 2011 the Attorney General warned the Town that both provisions but noted that at the time, no court rulings had been made. Both provisions used substantially the same language and definitions. The following year, Cumberland Farms, Inc. v. Board of Appeals of the Town of Wellfleet and the Town of Wellfleet challenged the validity of Section 6.30 Formula Business. In 2015 a ruling was made invalidating Wellfleet's Formula Business provisions on the grounds that they (1) violated G.L. c.40A, §4, which requires that zoning regulations be uniform within a zoning district for each class or kind of structure or use permitted, and (2) imposed impermissibly vague and subjective special permit standards. We have also been advised that the definitions of Drive-In Restaurant and Fast Food Restaurants are likely too similar to prohibit one and allow the other. We have been informed by Town Counsel that the Fast Food and Formula Restaurants is similarly vulnerable to challenge. In order to protect the Town from development that it considers deleterious we need to amend our Zoning Bylaw. This proposal retains the prohibition on Fast Food Restaurants, strengthens our definitions, and gives the Zoning Board of Appeals additional tools to protect the character of Wellfleet and extends them to some other commercial uses of particular concern. It also defines certain light industrial uses or scale as activities that require additional considerations to be taken into account.

**ARTICLE NO. 10 – ZONING BYLAW AMENDMENT – DEFINITION OF TREES:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending **§235- 2.1** by inserting the following new definitions in alphabetical order as follows:**§235 - 2.1 Definitions:**

**Community Wildfire Protection Plan (“CWPP”):** A plan developed in the collaborative framework established by the Wildland Fire Leadership Council and agreed to by the local government, local fire department, federal land management agencies managing land in the vicinity of the planning area, and other stakeholders. A CWPP may address issues such as wildfire response, hazard mitigation, community preparedness, or structure protection - or all the above.

**Invasive Plants:** Plant species identified by the Massachusetts Invasive Plant Advisory Group as Invasive, Likely Invasive, or Potentially Invasive. [\[Link for reference\]](#)

**Locally Notable Trees:** Native trees with a girth of 120 inches or greater measured at breast height (4.5') or below the lowest branching trunk, whichever is less. Or tree species listed as Endangered, Threatened, or of Special Concern by Massachusetts

**Timber:** Woody plants and trees with a girth of sixteen (16) inches measured at breast height (4.5’) or below the lowest branching trunk, whichever is less.

**Tree Thinning:** Tree removal in an immature forest stand that reduces tree density and between-tree competition performed by a certified arborist.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This adds definitions to the Zoning Bylaws in regards to trees and timber. This contains no applications of the definitions in and of themselves, but the definitions can be utilized by other bylaws.

## **ARTICLE NO. 11 – ZONING BYLAW AMENDMENT – CUTTING OF TIMBER:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending **§235 -6.9** as follows:

### **§235 - 6.9.1 CUTTING OF TIMBER WITHIN NSP**

Within the National Seashore Park District, there shall be no cutting of timber except permitted by the Building Commissioner for the following reasons:

- (a) By an owner for the purpose of reasonably controlling brush or trees;
- (b) Maintenance cutting in pastures;

(c) Cutting for clearance or maintenance on right-of-way including those pertaining to public utilities or public highways, provided said clearance or maintenance complies with Chapter 200, the Town's Scenic Road Bylaw, if applicable;

(d) as specified in a **Community Wildfire Protection Plan** by the Wellfleet Fire Department or the National Park Service; or

(e) the removal of Invasive Plants as determined by a certified arborist.

**Exemptions:**

This section shall not apply to federal, state or municipal projects.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This updates the “Cutting of Timber”. The assumption is that the current bylaw dates to the 1960s, and there was not much of an awareness of the detrimental impacts of most invasive species, and fewer were considered invasive. A Community Wildfire Protection Plan [CWPP] is seeks to mitigate some of the risks of a wildfire to life and property and would be developed under the aegis of the Town and the Park. As of now, there is not a CWPP but the park does issue fire safety recommendations to property owners, so this provision is future looking.

**ARTICLE NO. 12 – ZONING BYLAW AMENDMENT – LANDSCAPE AND TREE PRESERVATION:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by inserting a new §235 -6.9.2 as follows:

**§235 6.9.2 Landscape and Tree Preservation Bylaw**

§235- 6.9.2.1 Purpose: A wide variety of landscapes are necessary to provide a richness of habit required to support a diverse variety of species. Planting of native species in disturbed areas prevents those areas from being colonized by invasive species.

**§235 - 6.9.2.2**

Applicability: No construction, site preparation work or grading shall be done in any zoning district on any parcel of land, which will result in the removal of greater than twenty percent (20%) of existing vegetation or Timber or a maximum area of disturbance of 10,000 sq ft, whichever is less, until any necessary permits and approvals have been obtained. If the total area of disturbance is greater than 12,500 sq ft, a special permit shall be required in all districts.

At the conclusion of all site work, including but not limited to the construction of structures, grading, and grubbing, the disturbed area must be re-vegetated with native species. In the absence of re-vegetation with native species of the disturbed area, a fee determined by the table (Table 6.9.2.3) shall be applied to be paid to the Environmental Betterment Fund. Landscaping with Invasive Plants is hereby prohibited.

**Table 6.9.2.3 Payment to the Environmental Betterment Fund**

<u>Area not re-vegetated</u>	<u>Base Fee</u>	<u>Fee for area not re-vegetated</u>
<u>5,000-9,999 sq ft</u>	<u>\$100</u>	<u>\$0.25 /sq ft</u>
<u>10,000-19,999 sq ft</u>	<u>\$100</u>	<u>\$0.50 /sq ft</u>
<u>&gt; 20,000 sq ft</u>	<u>\$100</u>	<u>\$0.75 /sq ft</u>

**§235-6.9.2.4 Exemptions:**

This section shall not apply to the removal of Invasive Plants as determined by a certified arborist, trees that are diseased in the opinion of a certified arborist, or the removal of trees threatening the safety of people, structures, roadways, or utilities.

This section shall not apply to any federal, state or municipal projects.

If Wellfleet adopts a Community Wildfire Protection Plan, the specifications contained therein shall supersede those herein.

This section shall not prohibit site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval. If, after obtaining all necessary permits and approvals, such work is commenced and then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated with native species in a manner sufficient to avoid erosion.

Deed-restricted affordable housing or housing deed restricted to year-round residency shall be exempt from payments in lieu of re-vegetation.

Tree Thinning may be permitted by the Building Commissioner where the total canopy cover is retained, and disturbance to the ground and other vegetation is minimized. Tree thinning may be exempt from payments in lieu of re-vegetation.

Whereas Wellfleet is a Right to Farm Community, land clearance in association with commercial agriculture, as provide under G.L. c. 40A, Section 3, shall be exempt from this bylaw .

**§235-6.9.2.5 Special Permits**

In addition to the provisions and criteria set forth in §235-8.4.4, the Board of Appeals acting as the SPGA, shall grant a special permit under §235-6.9.2 unless it finds that the proposal shall have an adverse effects on the Town or the vicinity of the subject parcel that outweighs any benefits, taking into consideration the stated district objectives (Section 235-3.2) and, where germane, the following matters:

- (a) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from a proposal such as this, considering erosion, siltation potential groundwater or surface water contamination, habitat disturbance, or loss of valuable natural vegetation;
- (b) Whether scenic views from public ways and developed properties have been considerably treated; and
- (c) Whether any traditional public access to or along the shoreline has been maintained.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** At the 2022 Annual town meeting, the petitioned Article 48 "Tree Preservation Resolution," passed with an overwhelming majority. The Selectboard was charged with causing a tree preservation bylaw to be drafted. Girth(circumference) is the standard forest measurement of a tree as is breast height. The petitioned article made no provision for cutting trees not associated with construction or demolition activities. The bylaw before you prohibits large scale removal of trees and ground cover unless all permits have been issued as well as protecting other forms of vegetation. A payment in lieu of re-vegetation, as requested in the Tree Preservation referendum at the 2022 Town Meeting in the instance of large-scale disturbance, requires the bylaw to operate under Massachusetts General Law, Chapter 40A, Section 9, Fourth paragraph, which requires a Special Permit, this establishes the presumption that a special permit would be granted unless the SPGA reaches a finding that the proposed clearing is unusually detrimental. Additionally, a payment in lieu of re-vegetation is required and the receipts are placed into the Environmental Betterment Fund as a means to offset the environmental disturbance

**ARTICLE NO. 13 – ZONING BYLAW AMENDMENT – LOCALLY NOTABLE TREES:**

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by inserting a new Section §235-6.9.3 as follows:

**§235- 6.9.3 Purpose and Applicability**

Recognizing the value large older trees provide to wildlife and the unique role they play in the ecosystem they should be preserved whenever possible. No removal of or trimming of Locally Notable Trees shall be permitted until all necessary permits and approvals have been obtained unless there is an immediate threat to public safety, structures, or utilities.

#### **§235 - 6.9.3.1 Special Permit Required**

Removal of Locally Notable Trees shall require a special permit from the Zoning Board of Appeals as the Special Permit Granting Authority. Any application for the removal of a Locally Notable Tree(s) shall be referred to the Conservation Commission for comment prior a hearing per Ch. 40A, Sec. 11 before the Special Permit Granting Authority. A priority shall be placed on retaining these trees during the course of any construction activities or site plan and or landscaping.

§235 - 6.9.3.2 Applications for the trimming of a Locally Notable Tree must include a letter from a certified arborist that the trimming poses little risk to the health of the tree prior to any such work being performed and are subject to the approval of The Tree Warden. Said Trimming includes that of the Tree's root system. If the Tree Warden or Arborist determines that the trimming of a Locally Notable Tree poses a threat to its health, they shall refer the matter to the Special Permitting Authority, who will refer it to the Conservation Commission for comment prior to the hearing.

#### **§235 - 6.9.3.3 EXEMPTIONS**

This section shall not apply to the removal of Invasive Plants, diseased trees, or those posing an imminent threat to people, structures, roadways, or utilities, as determined by the Tree Warden.

This section shall not apply to federal, state or municipal projects.

#### **§235 6.9.3.4 Special Permit Criteria**

In addition to the provisions and criteria set forth in §235-8.4.4, the Board of Appeals acting as the SPGA, may grant a special permit for the removal or trimming of a Locally Notable Tree if it reaches a finding that there is no viable alternative to said removal.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** It also requires a special permit for removal or for the trimming that may pose a risk to the health of very large trees. Very large trees provide extensive ecosystem benefits as well as often natural playgrounds. This also clarifies and strengthens the prohibition of the cutting of timber in the NSP.



**ARTICLE NO. 14 – ZONING BYLAW AMENDMENT – ZONING ENFORCEMENT PENALTY:**

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, section 8.3 Penalty by deleting the language struck through and adding the language underlined.

[Amended 6-26-2021 ATM by Art. 45]8.3 PENALTY

~~8.3 Penalty Any person violating any of the provisions of these Bylaws may be fined not more than \$50.00 for each offense, except in the case of violations of Section 6.21 Accessory Dwelling Units, the fine shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.~~

§ 235-8.3 Penalty.

- A. Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined not more than \$300 for each offense. Each day that such a violation continues shall constitute a separate offense.
  
- B. Accessory Dwelling Units: Any person, association, firm or corporation violating § 235-6.21
- C. Accessory dwelling units (ADU), the fine shall be \$300.00 for each offense. Each Accessory Dwelling Unit in violation shall be a separate violation. Each day that such violation continues shall constitute a separate offense.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** The maximum allowed fine under MGL Ch 40a Section 7 for zoning infractions is \$300 dollars per violation. Most Massachusetts municipalities have adopted the maximum allowable fine. This does not mean that the fine is always \$300. With the exception of ADUs, the fine is at the discretion of the building commissioner. Enforcing zoning is expensive, and this provides both a means to recapture some of the costs based on the level of the infraction as well as providing the commissioner with additional leverage to address zoning infractions. ADUs are required to be occupied on a year-round basis, and clarifies that the fine is applied to each ADU out of compliance.

**ARTICLE NO. 15 – GENERAL BYLAW AMENDMENT – MINIATURE “NIPS” BOTTLE BAN:**

To see if the Town will vote to adopt the following as a general bylaw and to insert it into the Code of the Town of Wellfleet, Massachusetts.

General Bylaws  
Chapter 187. Plastics and Other Environmental Hazards

Article V Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles

Section 1. Sale of

Effective on September 1, 2024, it shall be unlawful to sell or offer for sale alcoholic beverages in containers less than or equal to 100 milliliters within the Town of Wellfleet.

Section 2. Enforcement

Enforcement of this article shall be the responsibility of the Town Administrator or his/her designee. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate.

Any establishment conducting sales in violation of this article shall be subject to a non-criminal disposition fine as specified in G. L. Chapter 40 § 21D. The following penalties apply:

- First violation: Written warning
- Second violation: \$150 fine
- Third and subsequent violations: \$300 fine

Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Wellfleet.

All businesses will be routinely inspected until the Town Administrator deems the inspection to no longer be required.

(Requested by the Selectboard)

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** Nips are miniature single-serve liquor bottles made of plastic or glass. The plastic nip bottles are not recyclable, due to their small size, nor are nips bottles covered by the state bottle redemption law. Nips litter is a pervasive problem, dotting roadsides and beaches. A Falmouth group surveyed litter on that town’s roadways in 2021 and found that nips made up 32% of roadside garbage. The reason nips end up on roadsides is a public health and safety concern. Nip bottles are a convenient way to consume alcohol while driving and dispose of the container out the window. In 2018, data showed Chelsea received 742 alcohol related emergency calls. Chelsea's ban passed that year and by August of 2019, that number had decreased to 128 calls of the same kind. Nips bans are now in effect in Chelsea, Falmouth, Mashpee, Newton, Wareham, and Nantucket. The two Martha’s Vineyard towns that sell nip bottles, Oak Bluffs and Edgartown, passed nip bottle bans earlier this year.

**ARTICLE NO. 16 – GENERAL BYLAW AMENDMENT – ANIMAL CONTROL REGULATIONS:**

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 111 by deleting the language struck through and adding the language underlined.

(Requested by the Selectboard)

Article I

**Animal Control**

[Adopted 6-26-2021 ATM by Art. 47 (Art. XV of the General Bylaws)]

**§ 111-1 Purpose.**

The purpose of these bylaws is the control of animals to prevent injury to property, persons and animals.

**§ 111-2 Administration.**

The Selectboard shall appoint an Animal Control Officer who, in addition to any other authorized enforcement officers, shall be responsible for the enforcement of these bylaws.

**§ 111-3 Definitions.**

For the purposes of this bylaw, the following terms shall have the following definitions:

**ADEQUATE SHELTER**

Means a structure that is large enough for the animal to stand naturally, turn around and lie down inside of the structure without being exposed to the elements of weather. The roof and walls of the structure are 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 dogs 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 shelter to preserve the animal'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.

**BEACH**

The zone above the water line at a shore of a body of water, marked by an accumulation of sand, stone, or gravel that has been deposited by the tide or waves.

**DOMESTICATED ANIMAL**

Any of various animals that have been tamed and made fit for a human environment.

**KEEPER**

Any person, other than the owner, possessing, harboring, keeping, or having control or custody of a dog either permanently or on a temporary basis. If a person under the age of 18 owns or keeps a dog, that person's custodial parent(s) or legal guardian(s) shall be responsible for complying with the requirements of these bylaws.

**KENNEL, COMMERCIAL**

A kennel maintained as a business where four or more dogs three months of age or older are kept for the breeding, boarding, sale, in-residence training, grooming or other business purposes, and including any shop where dogs are on sale or a kennel of 10 or more dogs regardless of the purpose for which the kennel is maintained.

**KENNEL, RESIDENTIAL**

Means a collection of four up to and including nine dogs, three months of age or older, owned or kept on a single premises, maintained for any non-commercial purpose except for the sale of one litter per year; provided, however, that a veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes.

**DANGEROUS DOG**

Any dog that attacks, bites or injures any human or domesticated animal without provocation or which, because of its temperament, conditioning or training, has a propensity to attack, bite or injure humans or domesticated animals.

**LICENSING PERIOD**

The licensing period means the time between January 1st and the following December 31st of each year, both dates inclusive.

**§ 111-4 Dog licensing.**

**Dogs must be leashed.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), the Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this section.

- A. Any person residing in the Town of Wellfleet, who at the beginning of the license period (January 1 to December 31), or who during the license period, becomes the owner or keeper of a dog six months old or over, shall cause the dog to be licensed within 30 days. The Town Clerk shall issue dog licenses and tags based on the completion and the approval of the Dog License Application form that is available on the town's website. The completed form along with the required additional documentation can be brought to the Town Clerk's office or sent to the Town Clerk by mail.
  
- B. An applicant for a dog license will also bring to the Town Clerk's office or send to the Town Clerk by mail the following required additional documentation:
  - 1. Copy of current rabies certificate
  - 2. Copy of Spaying/Neutering certificate (if not noted on rabies certificate)
  - 3. Self-addressed envelope with sufficient postage (license will be held in office if a completed return envelope is not enclosed)
  - 4. Check made payable to: Town of Wellfleet for the total of the licensing fee.
  
- C. On the license form, the Town Clerk shall record the name, address, mailing address, email address, phone number and the date of birth of the owner or keeper of the dog, and the name, age, breed, sex, and description of each dog. Each tag shall include the license number, the name of the Town and the year of issue.
  
- D. The owner or keeper of the dog shall cause each dog to wear around its neck or body a collar or harness to which they shall securely attach the license tags. In the event that any license tag is

lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at the cost of \$1. Such moneys shall be transmitted to the Town of Wellfleet in the same manner as license fees.

- E. The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies.
- F. Any exemption from the requirements of having to produce a valid rabies certificate in order to obtain a dog license shall be granted if the owner or keeper presents a signed statement from a veterinarian, indicating that because of infirmity, other physical condition or regimen of therapy, inoculation is thereby deemed inadvisable.
- G. The fee for each dog license shall be \$10 unless a certificate from a veterinarian stating that the dog has been spayed or neutered, or a statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable, is presented to the Clerk, in which case the fee shall be \$5. No fee shall be charged for a dog specially trained to lead or serve a blind, deaf, or handicapped person upon presentation to the Town Clerk of a certificate of such training.
- H. The Clerk shall collect a late fee of \$5 for every dog license issued after the thirty-day period, as defined in § 111-3 of this article.
- I. Any owner or keeper of a dog who moves into the Town of Wellfleet and has a valid dog license for his/her dog from another city or town in the commonwealth shall, within 30 days, obtain a dog license from the Town of Wellfleet.
- J. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, or removal from the Town of Wellfleet or any other disposal of said dog.
- K. This section shall not apply to a person to whom a valid kennel license has been issued under § 111-10, or a dog housed in a research institution.
- L. Penalties shall be imposed as per § 111-11B(1).

**§ 111-5 Dog waste removal.**

- A. All dog owners, keepers or persons having control of a dog are responsible for immediately removing and disposing of all solid wastes produced by said dog on any property (other than the property of the dog owner) in a sanitary manner and where it will not cause pollution, either directly or indirectly.
- B. No written warning shall be given.
- C. Penalties shall be imposed as per § 111-11B(2).

**§ 111-6 Barking and other noise caused by dogs.**

- A. No person owning, keeping or otherwise responsible for a dog shall allow said animal to annoy another person's reasonable right to peace or privacy by making loud or other continuing noise, where such noise is plainly audible at a distance of 100 feet from the building, premises, vehicle, or other means of conveyance or housing of said dog, or where such noise is continuing for 15 minutes. The fact that such noise is plainly audible at said distance or continuing in excess of 15 minutes on a daily basis shall be prima facie evidence of a violation.
- B. Penalties shall be imposed as per § 111-11B(3).

**§ 111-7 Animals in parked vehicles.**

No animal may be left unattended in a parked vehicle at any time of year.

Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement has the possibility to endanger or does in fact endanger the health or safety of the animal shall be subject to a fine.

**§ 111-8 Licensing and regulation of dangerous dogs.**

- A. Determination of a dog being dangerous. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Wellfleet Police Department, the Selectboard, or the Town Administrator that any dog owned or kept within the Town of Wellfleet has attacked, bitten, or injured any person or domesticated animal, or which by its temperament, conditioning or training has a propensity to attack, bite or injure persons or domesticated animals.
- B. The Animal Control Officer is authorized to make whatever inquiry is deemed necessary to determine the accuracy of said complaint, and if the Animal Control Officer determines that the complaint is accurate, the Officer may find that the dog is dangerous and may make such orders as he or she deems necessary to ensure compliance with the provisions of this bylaw and to promote public safety.
- C. Upon determination by the Animal Control Officer that a dog is dangerous, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint or disposal of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be dangerous and shall require the owner or keeper of such dog to comply with the requirements of this bylaw.
- D. Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be humanely euthanized in accordance with the provisions of MGL c. 140, § 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. If the Animal Control Officer determines that the dog is to be permanently given or sold to new owner, removed, the new owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the dog.
- E. The owner or keeper of any dog determined to be dangerous by the Animal Control Officer may request a hearing before the Selectboard. Said request shall be in writing and received by the Selectboard within five business days of the owner's or keeper's receipt of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. The hearing request shall include an explanation of the measures that the owner or keeper intends to take to protect public safety pending disposition of the matter by the Selectboard. If the Selectboard determines that the

measures described are inadequate, it may order that said dog be impounded, at the owner's or keeper's expense, until such time as the Selectboard rules otherwise.

F. After a hearing, at which those testifying shall be sworn under oath, the Selectboard may affirm the order, reverse or nullify the order, or issue any such order as it deems necessary to ensure compliance with the provisions of these bylaws and the protection of public safety. The determination of the Selectboard after a hearing shall be final.

G. Nothing in this bylaw is intended to limit or restrict the authority of the Selectboard to act in accordance with MGL c. 140, § 157.

**§ 111-9 Control of dangerous dogs.**

A. The Animal Control Officer shall notify the Town Clerk of all dogs determined to be dangerous, pursuant to the terms of this bylaw.

B. The owner or keeper of any dog determined to be dangerous in accordance with this bylaw, which has not been ordered euthanized, shall re-license said dog as "dangerous" within 30 days of such determination. A unique licensing number shall be assigned to such a dog by the Town Clerk. That number shall be noted in the Town licensing files.

C. No dangerous dog shall be licensed by the Town of Wellfleet for any licensing period unless the owner or keeper of such vicious dog displays a sign not to exceed one square foot on his or her premises warning that there is a dangerous dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

D. All dangerous dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises which does not have a locked enclosure or for any owner or keeper to allow any such dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the orders or directions of the Animal Control Officer and/or the Selectboard with respect to the vicious dog, or to comply with the provisions of these bylaws. In such event, the dangerous dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog. Dangerous dogs shall not be permitted to run loose on any public or private way or any area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.

E. License revocation. If the Animal Control Officer determines that a dangerous dog is being kept in the Town in violation of these bylaws or any order issued by the Animal Control Officer, or the Selectboard, or of any court, the Animal Control Officer shall so notify the Selectboard. After giving notice to the owner or keeper of the hearing, the Selectboard shall hold a public hearing on whether to revoke the license of said dog or to take further action, including euthanizing the dog. If the Selectboard revokes the license of said dog and does not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within 10 days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any dangerous dog found outside of its enclosure in violation of this bylaw or any order issued by the Animal Control Officer, Selectboard or any court.

**§ 111-10 Kennel licenses, inspection and regulation.**

A. Requirement for kennel license. Any owner or keeper of four up to and including nine dogs, three months of age or older, being maintained at a premises, shall secure a Residential Kennel License. The Town Clerk shall not issue a Residential Kennel License unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that each dog three months of age or older is currently vaccinated against rabies. Any owner or keeper of 10 or more dogs, three months of age or older, or of a premises maintained as a commercial kennel, shall obtain a Commercial Kennel License.

B. Application and issuance of kennel license and fees.

(1) A Residential or Commercial Kennel License shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection of the kennel and a determination, made by the Animal Control Officer, that the basic standards of cleanliness, proper care, confinement, and adequate shelter of said dogs exist on the premises. The name and address of the owner or keeper of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog, three months of age or older, is currently vaccinated against rabies and kennel cough, shall be kept on file on the premises and available for inspection by the Animal Control Officer or any authorized persons. Such license shall be in the form prescribed by the Town Clerk.

(2) The Residential Kennel License fee shall be \$50. The Commercial Kennel License fee shall be \$150. The Town Clerk shall, upon application, issue without charge a Commercial Kennel License to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and for the relief of suffering among animals. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the current dog license information of the town where the dog resides. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes, in which case it shall apply for a Commercial Kennel License. The license period for a kennel license shall be from January 1 to December 31, inclusive. Kennel licenses are non-transferrable.

C. Inspection. The Animal Control Officer, Animal Health Inspector, or any agent authorized by the Town may at any reasonable time inspect any kennel or premises for which a Residential or Commercial Kennel License has been issued.

D. Loss of kennel license. If the Animal Control Officer, Animal Health Inspector, or other authorized agent, after inspection, determines that the kennel or premises that are the subject of a kennel license are not kept in a sanitary or humane condition, or if records are not kept as required by law, the inspecting officer shall notify the Selectboard of that determination and the facts upon which it is based. The Selectboard may, by order after a hearing, revoke or suspend such license. If a license has been revoked or suspended, the license may be reinstated after inspection and a reinstatement order by the Selectboard after a new hearing.

E. Procedure for complaint to the Selectboard. Upon written petition of any person or persons, filed with the Selectboard, setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel because of excessive barking or dangerous disposition of said dogs, or other conditions connected with such kennel constituting a public nuisance, said Selectboard, within seven days after the filing of such a petition, shall give notice to the owner or keeper of the kennel, the petitioner(s), and any other person the Selectboard determine should be given notice, of a public hearing to be held within 14 days after the date of such notice. Said notice shall also be posted on a Town bulletin board. Within seven days after such public hearing, said Selectboard shall make an order either



revoking or suspending such kennel license, or otherwise regulating said kennel or premises, or dismissing said petition.

F. Petition for relief to court. The holder of a kennel license or other person who is the subject of an order under Subsection E may petition the District Court for relief in accordance with MGL c. 140, § 137C.

F. Penalties shall be imposed as per § 111-11B(4).

**§ 111-11 Fines and penalties.**

A. Criminal disposition. In addition to any other legal remedies that may be available, the Animal Control Officer, or other designated enforcing person, may enforce this bylaw by non-criminal disposition. If a non-criminal disposition process, as provided in MGL c. 40, § 21D and the Town's Non-Criminal Disposition Bylaw is elected, then any person who violates the provisions of Chapter 111, Article I, of the Town's General Bylaws shall be subject to the following enforcement fines and penalties.

(1) The enforcing officer may give a written warning for the first offense or shall impose the following fines:

- (a) First offense \$50.
- (b) Second offense \$100.
- (c) Third offense \$300.
- (d) Fourth and subsequent offenses \$500.

(2) Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

B. These penalties shall apply to all violations of Wellfleet's General Bylaws, Chapter 111, Article I, except that:

(1) Any person who violates the provisions of § 111-4 shall be subject to a verbal or written warning for the first offense, a fine of \$50 for the second offense and a fine of \$100 for the third and any subsequent offenses.

(2) Section 111-4, Dogs must be leashed, and §

(2) Section 111-5, Dog waste removal. Owners or keepers of dogs found to be in violation shall be fined immediately as a first offense and subsequently as listed for the third, fourth and subsequent offenses, with no written warning;

(3) Section 111-6, Barking and other noise caused by dogs. Owners or keepers of dogs found in violation shall be fined \$50 for each offense;

(4) Section 111-10, Kennel licenses, inspection and regulation. Kennel owners shall be subject to a penalty in the amount of \$50 per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

Article II

**Dogs at Large**

**[Adopted as Art. VII, Sec. 25, of the General Bylaws]**

**§ 111-12 Dogs in cemeteries.**

No person shall permit a dog to enter within the boundaries of any cemetery in the Town of Wellfleet.

**§ 111-13 Restraint requirements.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers) and the Animal Control Officer and any other officials whom he Selectboard may from time to time designate shall have the authority to enforce this section.

**§ 111-14 Violations and penalties.**

Any dog found running at large will be removed and impounded. If it is the first offense subject to this article committed by a person within a calendar year, the charge shall be dismissed without the payment of any fine; if it is the second offense so committed in the calendar year, the payment of a fine of \$25 shall operate as final disposition of the case; if it is the third offense so committed in a calendar year payment of a fine of \$30 shall operate as final disposition of the case; if it is the fourth or subsequent offense so committed the payment of a fine of \$50 shall operated as a final disposition of the case. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), and the Dog Officer Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this article.

Article III

**Wildlife Protection: Feeding**

**[Adopted 9-10-2022 STM by Art. 15]**

**§ 111-15 Feeding of songbirds and other backyard birds permitted on private property.**

The feeding of songbirds and other backyard birds shall be permitted on private property subject to the condition that birds shall only be fed from bird feeders.

**§ 111-16 Feeding of wildlife**

The feeding of wild animals and/or wildlife is prohibited.

A. No person shall feed, bait, or in any manner provide access to food to any wild animal and/or wildlife within Town of Wellfleet on lands either publicly or privately owned, except as permitted by § 111-15.

B. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor food sources or attractant after being advised by the Town to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources or attractants.

C. The prohibitions of this section shall not apply to naturally growing shrubs, live crops, plants, flowers, vegetation, gardens, or trees.

**§ 111-17 Enforcement.**

A. The Animal Control Officer shall enforce the provisions of this article.

B. Violations of this article shall be enforceable under the noncriminal disposition procedures established by MGL c. 40, § 21D. The noncriminal disposition penalties for any person violating this article shall be a written warning for the first violation; \$25 for the second violation; \$100 for the third violation; and \$300 for each subsequent violation. Each day of violation shall constitute a separate offense.

**2/3<sup>rd</sup> Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:**

**SECTION III: STANDARD CLOSING ARTICLES**

**ARTICLE NO. 17 – ENVIRONMENTAL BETTERMENT FUND:**

To see if the Town will vote to establish a special purpose “Environmental Betterment Fund” fund pursuant to G.L. c. 40, §5B and further to dedicate one hundred percent (100%) of the revenue received as payments in lieu of under [article and section of zoning] Tree Preservation, to be appropriated by future votes of Town Meeting as grants or to support initiatives benefiting the environment within the Town of Wellfleet, or to act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.**

**Recommend: Yes – 0, No – 0, Abstain – 0.**

**SUMMARY:** This creates a dedicated fund to support environmental initiatives within Wellfleet. It is funded by contributions received as mitigation (payments in lieu of) under the Tree Preservation Zoning Bylaw. Expenditures from this fund must be approved by town meeting.

**SECTION IV: STANDARD CLOSING ARTICLES**

**ARTICLE NO. 18 - REPORTS OF BOARDS AND COMMITTEES:**

To hear reports of the Selectboard, Town Officers, and all other Committees and to act thereon, or do or act on anything thereon.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes - 0, No - 0, Abstain - 0.**

**Recommend Yes - 0, No - 0, Abstain - 0.**

**ARTICLE NO. 19 - OTHER BUSINESS:**

To act on any other business that may legally come before the meeting.

(Requested by the Selectboard)

**Majority Vote Required**

**Recommendations:**

**Selectboard:**

**Insert Yes - 0, No - 0, Abstain - 0.**

**Recommend Yes - 0, No - 0, Abstain - 0.**

**ANNUAL TOWN ELECTION WARRANT**

Tuesday September 26, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

**GREETINGS:**

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet at the **WELLFLEET ADULT COMMUNITY CENTER, 715 OLD KING'S HIGHWAY** in Wellfleet on Tuesday the 26<sup>th</sup> day of September, 2023, between twelve o'clock noon and seven o'clock p.m., then and there to vote on the following questions:

**Question 1:** Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay costs associated with design and construction of Phase I Wastewater Treatment System to serve 95 Lawrence Road and surrounding municipal buildings?

**Majority Vote Required**

**Question 2:** Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay to assist in the installation of high performance, so called "enhanced" Innovative & Alternative Septic Systems within the Wellfleet Harbor Watershed?

**Majority Vote Required**

**2023 SPECIAL TOWN ELECTION WARRANT**

And you are hereby directed to serve these warrants by posting attested copies thereof, one in the Post Office in Wellfleet and one in the Post Office in South Wellfleet, fourteen (14) days at least before the date of said meetings.

Hereof fail not and make do return of these warrants with your doings thereon, to the town Clerk, at the time and place of said meetings.

Give under our hands this \_\_\_\_ day of AUGUST 2023.

**Wellfleet Selectboard**

\_\_\_\_\_  
Ryan Derek Curley, Chair

\_\_\_\_\_  
Barbara Carboni, Vice Chair

\_\_\_\_\_  
Michael F. DeVasto, Member

\_\_\_\_\_  
Kathleen Bacon, Member

\_\_\_\_\_  
John A. Wolf, Clerk

**Constable's Return of Service**

I have served the foregoing warrant by posting attested copies thereof in the Post Office in Wellfleet and the Post Office in South Wellfleet in the town on \_\_\_\_\_, which is at least fourteen (14) days before the date of said meeting, as within directed.

Date: \_\_\_\_\_

Constable: \_\_\_\_\_





## SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 18, 2023

VI

### ADJOURNMENT OF OPEN SESSION MOVE INTO EXECUTIVE SESSION

<b>REQUESTED BY:</b>	Selectboard
<b>DESIRED ACTION:</b>	<b>Purpose <i>M.G.L. c.30A, Sec. 21</i></b> <i>Purpose 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.</i>
<b>PROPOSED MOTION:</b>	<b>Collective Bargaining ~ WEA</b>
<b>SUMMARY:</b>	
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____





# SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 18, 2023

# VII

## ADJOURNMENT

<b>REQUESTED BY:</b>	<b>Selectboard Chair Ryan Curley</b>
<b>DESIRED ACTION:</b>	<b>To Adjourn</b>
<b>PROPOSED MOTION:</b>	<b>I move to Adjourn the Meeting</b>
<b>ACTION TAKEN:</b>	Moved By: _____ Seconded By: _____ Condition(s):
<b>VOTED:</b>	Yea _____ Nay _____ Abstain _____