



Wellfleet Selectboard

Note: Start Time of 7pm

The Wellfleet Selectboard will hold a public meeting on **Tuesday, September 5, 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=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

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

I. *Announcements and Public Comments*

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

II. *Consent Agenda*

- A. Approval of the Wellfleet Affordable housing Fall Tax bill Insert ~ Elaine Mellroy. (Approved by Town Collector)
- B. Approval of the Taxation Aid Committee Fall Tax Insert ~ Dawn Rickman (Approved by Town Collector)

- III. ***Special Town Meeting***
 - A. Review and to act on reducing the quorum requirement for the Special Town Meeting scheduled for September 18th, 2023, in consultation with the Town Moderator.
 - B. Motion Booklet Discussion, procedures for making and seconding motions
 - C. The provisions for childcare
- IV. ***Public Hearings***
 - A. Application received August 21, 2023; two one-day alcohol license for Wellfleet Spat. September 23, 2023, 3pm-7pm Art and Oyster Crawl. Gallery Tours of Wellfleet November 4, 2023, 3pm – 7pm
 - B. Application received August 29, 2023; Special Alcohol License for Wellfleet Oysterfest; Saturday and Sunday October 13th & 14th, 2023.
 - C. Shellfish Proposed Regulation Amendments
- V. ***Use of Town Property***
 - A. Wellfleet SPAT ~ dba: WOA ~ Tonya Felis, September 23, 2023 & November 4, 2023; 3pm – 7pm ~ Art & Oyster Crawl. (Participating Galleries): See Application for full details.
 - B. Wellfleet SPAT; Application received August 19, 2023, Use of town properties throughout Main Street, and other areas in Wellfleet; for Wellfleet Oysterfest 2023; October 12, 2023 – October 15, 2023
 - C. Brain Friedman ~ Homerun Baseball Camp ~ Wellfleet Elementary School Baseball Field ~ Tuesday-Thursday Summer of 2024, 8:30am-11:30am.
 - D. Second Summer Cycle, LLC (Patrick Lentell) ~ Cape Cod Chamber of Commerce; Parking Lot of White Crest Beach for water stop; September 17, 2023; 10:30am-3:00pm.
 - E. Wellfleet Conservation trust ~ Dennis O’Connell ~ Mayo Beach Parking Area for 2023 Coast Sweep ~ October 9, 2023; 9:30am – 12:00pm
- VI. ***Business***
 - A. Vote to approve issuance of bonds ~ Rich Waldo
 - B. Art Shacks on Mayo Beach ~ Kai Potter ~ Discussion with the board
 - C. Habitat for Humanity Housing ~ Old King’s Highway deed transfer
 - D. Town Planner Job Description - Special Town Meeting Handout ~ Rich Waldo
 - E. Reorganization of the Health and Conservation Department ~ Rich Waldo
 - F. Intermunicipal Agreement ~ Conflict of Interest Disclosure ~ KP Law Eastham/Wellfleet for budgetary Support
 - G. Memorandum of Agreement w/ Town of Eastham for Budgetary Support.
- VII. ***Selectboard Reports***
 - A. Prior Affiliations ~ Chair Barbara Carboni
 - B. Selectboard Goals FY2024 – Review and prioritize Town-wide goals.
- VIII. ***Topics for Future Discussion***
- IX. ***Town Administrator’s Report***
 - A. Proposed Appointment of Assistant Town Administrator
- X. ***Vacancy Reports***
- XI. ***Minutes***
 - A. August 8, 2023

B. August 15, 2023

C. August 22, 2023

XII. *Adjournment*



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

I

ANNOUNCEMENTS AND PUBLIC COMMENTS

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



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

II

CONSENT AGENDA

REQUESTED BY:	Various Parties
DESIRED ACTION:	To approve the following without objection
SUMMARY:	I move to approve the following items with no objection: Wellfleet Affordable Housing Fall tax insert Taxation Aid Committee Fall Tax Insert
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Conditions:
VOTED:	Yes _____ No _____ Abstain _____



Recent studies and reports show that the Outer Cape has a serious shortage of:

Home & elder care aides

Firefighters, EMTs

Health care professionals

Year-round & seasonal workers in all fields

We are losing the people who do this work due to the high cost and lack of housing.

The **Wellfleet Affordable Housing Trust** raises funds and works to create quality, affordable housing.

Please help! Make your tax deductible donation or bequest to the Trust to support this critical work to sustain our community:

Wellfleet Affordable Housing Trust, 300 Main Street, Wellfleet, MA 02667

Thank you. For more information: www.wellfleethousing.org

Name: _____ Donation amount: _____

Address: _____

TAXATION AID FUND ASSISTS HOMEOWNERS WITH PROPERTY TAXES

- * For Wellfleet Homeowners age 55+ or disabled at any age, AND
- * Low income below \$42,000 for single resident, or below \$55,000 for household/owners
Application is available from Town Treasurer, or download at www.wellfleet-ma.gov
Assistance filling out form is available through Council on Aging at 508-349-2800
(Note – All information submitted is highly confidential)

TAXATION AID COMMITTEE IS ASKING FOR DONATIONS TO THE FUND

All money for the Taxation Aid Fund is through voluntary donations dedicated directly to the Fund, (not out of Town budget). The Fund is running low!! Please, can you help?

Make check payable to: "Wellfleet Taxation Aid Fund"

Mail with this insert to: T.A.F., Town Hall, 300 Main Street, Wellfleet MA 02667. Thank you!

Name: _____ Amount: \$ _____

Mailing Address: _____

TAXATION AID FUND ASSISTS HOMEOWNERS WITH PROPERTY TAXES

- * For Wellfleet Homeowners age 55+ or disabled at any age, AND
- * Low income below \$42,000 for single resident, or below \$55,000 for household/owners
Application is available from Town Treasurer, or download at www.wellfleet-ma.gov
Assistance filling out form is available through Council on Aging at 508-349-2800
(Note – All information submitted is highly confidential)

TAXATION AID COMMITTEE IS ASKING FOR DONATIONS TO THE FUND

All money for the Taxation Aid Fund is through voluntary donations dedicated directly to the Fund, (not out of Town budget). The Fund is running low!! Please, can you help?

Make check payable to: "Wellfleet Taxation Aid Fund"

Mail with this insert to: T.A.F., Town Hall, 300 Main Street, Wellfleet MA 02667. Thank you!

Name: _____ Amount: \$ _____

Mailing Address: _____

TAXATION AID FUND ASSISTS HOMEOWNERS WITH PROPERTY TAXES

- * For Wellfleet Homeowners age 55+ or disabled at any age, AND
- * Low income below \$42,000 for single resident, or below \$55,000 for household/owners
Application is available from Town Treasurer, or download at www.wellfleet-ma.gov
Assistance filling out form is available through Council on Aging at 508-349-2800
(Note – All information submitted is highly confidential)

TAXATION AID COMMITTEE IS ASKING FOR DONATIONS TO THE FUND

All money for the Taxation Aid Fund is through voluntary donations dedicated directly to the Fund, (not out of Town budget). The Fund is running low!! Please, can you help?

Make check payable to: "Wellfleet Taxation Aid Fund"

Mail with this insert to: T.A.F., Town Hall, 300 Main Street, Wellfleet MA 02667. Thank you!

Name: _____ Amount: \$ _____

Mailing Address: _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

III

SPECIAL TOWN MEETING

~ A ~

REQUESTED BY:	Town Moderator, Daniel Silverman; Town Administrator, Rich Waldo
DESIRED ACTION:	Review and approve the reduction of Special town Meeting quorum
PROPOSED MOTION: SUMMARY:	I move to approve the reduction of quorum to 150 attendees for the special town meeting scheduled on Monday September 18, 2023, at 6pm.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



TOWN OF WELFLEET

300 MAIN STREET WELFLEET, MASSACHUSETTS 02667

Office of the Town Clerk

Townclerk@wellfleet-ma.gov

Tel (508) 349-0301 Fax (508) 349-0317

Wellfleet-ma.gov

August 22, 2023

Public Notice

In accordance with Chapter 2 of the Acts of 2023, notice is hereby given that the Selectboard at its meeting on September 05, 2023, intends to review and to act on reducing the quorum requirement for the Special Town Meeting scheduled for September 18th, 2023, in consultation with the Town Moderator.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

III

SPECIAL TOWN MEETING

~ B ~

REQUESTED BY:	Town Moderator ~ Daniel Silverman; Town Administrator ~ Rich Waldo
DESIRED ACTION:	To discuss the Town meeting motion booklets, and procedures for making and seconding motions
PROPOSED MOTION:	No motion is needed for this agenda item.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

III

SPECIAL TOWN MEETING

~ C ~

REQUESTED BY:	Town Moderator ~ Daniel Silverman; Town Administrator ~ Rich Waldo
DESIRED ACTION:	To discuss the provisions for childcare at town meeting
PROPOSED MOTION:	There is no motion needed for this agenda item
Summary:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

can be found on the homepage of Town website

Town Meeting Childcare

Monday, September 18, 2023

The Town of Wellfleet will provide childcare for children ages three and over during the Special Town Meeting to be held on Monday, September 18 at Wellfleet Elementary School. The childcare will be held in the Recreation Space accessed at the North end of the school adjacent to the parking area.

- Children of Wellfleet voters aged three and over are eligible to participate.
- If your child is not well on September 18, please don't bring them to Town Meeting Childcare.
- If your child has allergies to anything, food or otherwise, please enter that information in the form below.
- All parents are asked to keep their cellphones on so that if you need to be called, staff will be able to reach you.
- If your child needs snacks, please bring them in labeled bags or containers with the child's name on them.
- Water will be provided if the child wants it.
- Please bring a change of clothing in a bag labeled with the child's name.
- If your child brings books or toys with them, please make sure they are labeled with the child's name.

If you would like to bring your child, please fill out the form below and return it to us.

1. Name of child _____
 2. Age of child _____
 3. Name of parent(s) _____
 4. Cell _____
 5. Email address: _____
 6. Allergies _____
 7. Important information _____
-

Responses must be received by September 10, 2023 to allow us to have enough adults on hand for the childcare. Please email your responses to:

Suzanne.thomas@wellfleet-ma.gov OR

Mail: Town Meeting Childcare, 715 Old Kings Highway, Wellfleet, MA 02667

If a response is received after that date or if drop ins arrive, childcare will not be guaranteed. Children can be dropped off between 5pm and 6pm on 9/18/2023.

If you have questions, please forward them to suzanne.thomas@wellfleet-ma.gov or call 774-353-7456.

By signing this form, I acknowledge that I have read and understand its contents and agree to participate following the guidelines.

Signature of Parent or Guardian

Date



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

IV

PUBLIC HEARINGS

~ A ~

REQUESTED BY:	Wellfleet Spat ~ dba- WOA (Tonya Felix)
DESIRED ACTION:	To approve the two applications received August 21, 2023; one-day alcohol licenses for the Art and Oyster Crawl & Gallery tours on September 23, 2023; and November 4, 2023.
PROPOSED MOTION:	I move to approve Wellfleet Spat's two one day alcohol licenses for September 23, 2023; 3pm-7pm and November 4, 2023; 3pm-7pm for the Art and Oyster Crawl and Gallery Tours.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

TOWN OF WELLFLEET
PUBLIC HEARING

In accordance with M.G.L. Chapter 138, notice is hereby given that a public hearing will be held on Tuesday, September 5, 2023, at 7:00 p.m. both virtually and at the Wellfleet Community Center (715 Old King's Highway) to consider the following:

- Application received August 21, 2023; two one-day alcohol license for Wellfleet Spat. September 23, 2023, 3pm-7pm Art and Oyster Crawl. Gallery Tours of Wellfleet November 4, 2023, 3pm – 7pm.

Join Zoom Meeting

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

Meeting ID: 856 8960 4806

Passcode: 611877

Dial by your location

+1 929 205 6099 US (New York)

WELLFLEET SELECTBOARD

TOWN OF WELLFLEET

APPLICATION FOR SPECIAL EVENT LIQUOR LICENSE

TONYA FELIX DBA

1. Applicant: WELLFLEET SPAT / WOA Affiliation: EVENT COORDINATOR
Address: BOX 2156 WELLFLEET MA Telephone: 508-958-5227

2. Type of License All Alcohol (\$150/day) _____ Beer and Wine (\$100/day) ✓

3. Type of Activity Being Conducted ART AND OYSTER CRAWL

4. Date: 9/23/23 Hours of Service: 3-7 PM

5. Description of Premises: GALLERY TOURS W/ ROUTE MAP W/ RAW BARS + BEER/WINE
7 GALLERIES FROM COMMERCIAL ST. TO MAIN ST. BRIAR LANE INTERSECTION
APPROX 250 ATTENDEES - TICKETED EVENT

6. Name, Address, Telephone of Designated Manager (person responsible for activity)

TONYA FELIX 55 OLD BAY RD WELLFLEET MA
508 958 5227

7. If activity involves food service, please describe fully (i.e. raw Shellfish, heated casseroles, bakery goods, etc.)

7 RAW BARS (SNEEZE GUARDS, ICE COOLERS, CONDIMENTS, SHUCKERS
ICED DISPLAYS, GLOVED) ICED AREA FOR WINE / BEER SERVICE

Tonya Felix

Applicant's Signature

Fee: 100

Processing Fee: \$50.00

total = 150 -
pd -

Police Department: Kevin LaRocio

Building Department: ok-

Comments/Conditions: ↓

Comments/Conditions: Victor

1 officer detail in cruiser
to patrol area 2pm-8pm

Staley

Fire Department: Ryan Pauley

Health Department: ok-

Comments/Conditions: _____

Comments/Conditions: Meredith

approved -

DPW Department: ok - Jay

Town Administrator: _____

Comments/Conditions: Newton

Comments/Conditions: _____

Other: Community Services -
ok per Suzanne Thomas

Other: Shellfish Department
ok - Nancy Cietta

8-21-2023

paid - \$150

Date Received

Fee

Date Issued

TOWN OF WELLFLEET

APPLICATION FOR SPECIAL EVENT LIQUOR LICENSE

1. Applicant: TONYA FELIX WELLFLEET SPAT / DBA WOA Affiliation: EVENT COORDINATOR
Address: BOX 2156 WELLFLEET MA Telephone: 508-958-5227
2. Type of License All Alcohol (\$150/day) _____ Beer and Wine (\$100/day) ✓
3. Type of Activity Being Conducted GALLERY TOURS W / ROUTE MAP W / RAW BARS + BEER + WINE
4. Date: 11/4/23 Hours of Service: 3-7
5. Description of Premises: S-7 GALLERIES FROM COMMERCIAL TO MAIN ST BRIDR LN INTERSECTION
APPROX 100-200 ATTENDEES TICKETED EVENT - # TO BE DETERMINED
6. Name, Address, Telephone of Designated Manager (person responsible for activity)
TONYA FELIX 55 OLD BAY RD WELLFLEET
508-958-5227
7. If activity involves food service, please describe fully (i.e. raw Shellfish, heated casseroles, bakery goods, etc.)
S-7 RAW BARS (SNEEZE GUARDS, ICE COOLERS, CONDIMENTS, SHUCKERS
ICED DISPLAYS, GLOVED) ICED TUBS FOR BEER/WINE SERVICE

Tonyafelix

Applicant's Signature

Fee: 100

Processing Fee: \$50.00

total = 150

pd

Fire

Police Department: ok - Rich

Comments/Conditions: Pauley

Building Department: ok -

Comments/Conditions: Victor

Staley

Police:

~~Fire Department:~~ Kevin LaRocca

Comments/Conditions: _____

1 officer detail in cruiser

to patrol area on each day 2pm-8pm

Health Department: ok -

Comments/Conditions: Meredith

Balinger

DPW Department: ok - Jay

Comments/Conditions: Norton

Town Administrator: _____

Comments/Conditions: _____

Other: Community Services

ok - per Suzanne Thomas

Other: Shellfish Department

ok - Nancy Civetta

8-21-2023

150⁻ paid

Date Received

Fee

Date Issued



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

IV

PUBLIC HEARINGS

~ B ~

REQUESTED BY:	Wellfleet Spat dba: WOA
DESIRED ACTION:	To approve a special event liquor license for the 2023 Wellfleet Oysterfest
PROPOSED MOTION:	I move to approve the special event liquor license to Wellfleet Spat for the Oysterfest to be held on October 14 th and 15 th , 2023; on Main Street Wellfleet; between the hours of 10am and 5pm.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

In accordance with M.G.L. Chapter 138, Section 12; notice is hereby given that a public hearing will be held Tuesday September 5, 2023, at 7pm, with the Wellfleet Selectboard to consider the following item:

- Application for a special event liquor license: received August 29, 2023; Wellfleet SPAT for 2023 Wellfleet Oyster festival, October 13, 2023- October 15, 2023.

In person: 715 Old King's Highway, Wellfleet MA 02667

Join Zoom Meeting

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

Meeting ID: 856 8960 4806

Passcode: 611877

Dial by your location

- +1 929 205 6099 US (New York)

WELLFLEET SELECTBOARD

TOWN OF WELLFLEET

APPLICATION FOR SPECIAL EVENT LIQUOR LICENSE

1. Applicant: WELLFLEET SPAT/WOA Affiliation: NON PROFIT SOLC3 CORP S.P.A.T./WOA

Address: BOX 2156 WELLFLEET Telephone: 508 349 3499

2. Type of License All Alcohol (\$150/day) Beer and Wine (\$100/day 2 DAY ✓)

3. Type of Activity Being Conducted WELLFLEET OYSTER FEST 10/13-5pm-8pm

4. Date: 10/14 + 10/15/23 Hours of Service: 10 - 5 pm

5. Description of Premises: BEER + WINE WILL BE SERVED BY CERTIFIED POURERS WITHIN DESIGNATED AREAS BEHIND TOWN HALL AND AT FAR END OF PRESERVATION HALL PARKING LOT, CUT OFF AT 4:00 PM BOTH DAYS.

6. Name, Address, Telephone of Designated Manager (person responsible for activity)

NANCY O'CONNELL SPAT BOARD PRESIDENT, BOX 2156 WELLFLEET
LISA BROWN CLERK, BOARD OF DIRECTORS

7. If activity involves food service, please describe fully (i.e. raw Shellfish, heated casseroles, bakery goods, etc.)

RAW BARS, FOOD VENDORS WILL BE PRESENT ALL APPROPRIATE PERMITS OBTAINED + SAFETY PRECAUTIONS TAKEN.
HACCP / SERVE SAFE / TIPS - CERTS

[Signature]

Applicant's Signature

8/29/23

Fee: \$200

Processing Fee: \$50.00

paid 8-29-23

Friday night from 5pm - 8pm
Beer and wine to be served on
the main stage for "Meet The Shuckers"

Police Department: ok-

Building Department: ok-

Comments/Conditions: Kevin

Comments/Conditions: Meredith

Ralocco

Ballinger

Fire Department: ok-

Health Department: ok-

Comments/Conditions: Rich

Comments/Conditions: Meredith

Pauley

Ballinger

DPW Department: ok - Pete

Town Administrator: _____

Comments/Conditions: Morris

Comments/Conditions: _____

Other: _____

Other: _____

8-29-2023

paid

Date Received

Fee

Date Issued



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

IV

PUBLIC HEARINGS

~ C ~

REQUESTED BY:	Nancy Civetta ~ Shellfish Constable
DESIRED ACTION:	To approve the new proposed shellfish regulation amendments
PROPOSED MOTION:	<i>To Be Determined</i>
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition (s):
VOTED:	



Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

DATE: August 29, 2023
 TO: Selectboard Chair Carboni, Vice Chair Wolf and members Bacon, Curley and DeVasto
 FROM: Nancy Civetta, Shellfish Constable
 RE: Potential areas of focus for changing Wellfleet Shellfishing Regulations to prohibit licensing of grants to corporations or other business entities

Dear Selectboard members:

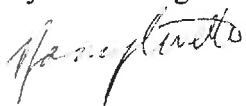
At its meeting on August 24, 2023, the Shellfish Advisory Board voted to recommend that the Selectboard only focus on regulation changes necessary to prohibit corporations and other business entities from being named to shellfish grant licenses at its public hearing on September 5, 2023. Motion and vote follows:

“To advise the Selectboard to only act on the regulation and definition changes necessary to prohibit corporations or other legal entities or institutions from being named to a license, and not vote on other unrelated proposed changes.
Motion passed unanimously. 6-0”

The Shellfish Department agrees with this. We believe that Shellfish Advisory Board needs time to go through the other proposed changes submitted by Town Counsel in order to provide ample public discussion before advising the Selectboard on them. The Shellfish Department looks forward to listening to the shellfishing community’s feedback and participating in these discussions should SAB decide to take up this work.

In an effort to make the task of addressing language in the regulations to prohibit corporations and other business entities from holding shellfish grant licenses easier at your public hearing, we made an attempt to outline only those sections necessary to accomplish this. We highlighted them in turquoise in the attached. The highlighting only reflects the sections we thought pertained to prohibiting corporations and other business entities from being named to shellfish grant licenses. You and/or the public may think differently, and we simply provided this as a draft guide, and nothing more.

In addition, we realized that Town Counsel used an older version of the regulations (dated 12/20/2022) to propose the changes in front of you. The current version is 5/23/2023. There will be no issues updating the regulations with any changes you vote on at your public hearing on September 5, 2023, using the most recent (5/23/2023) version and implementing the approved changes. We hope all this is helpful and look forward to learning more at your meeting on September 5.

Sincerely, 

Nancy Civetta, Shellfish Constable

wellfleet-ma.gov/shellfish-department
Phone (508) 349-0325  shellfish@wellfleet-ma.gov



Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

DATE: August 10, 2023

TO: Selectboard Chair Carboni, Vice Chair Wolf and members Bacon, Curley and DeVasto

FROM: Nancy Civetta, Shellfish Constable

RE: Licensing of grants to corporations or other business entities

Dear Selectboard members:

At your meeting on April 18, 2023, you voted to apply a moratorium on grant transfers to non-natural persons until September 30, 2023. Your conversations that evening indicated that you wanted to make sure that the shellfishing community could consider the current regulations, which allow business entities to be named to shellfish grant licenses, and then discuss whether this is something that should be changed in the regulations. Here are the minutes from this agenda item:

P. Moratorium on Aquaculture Licenses ~ Section 7.7 Chair Curley Opened Public Hearing P Chair Curley explained his intentions with this agenda item. Discussing aquaculture licenses and addressing issues that have been raised regarding LLC's. Bacon Agreed with this moratorium and stated it could be 90 days so that they can focus. They discussed the moratorium and who it would affect. DeVasto stated he was against this moratorium and gave his reasons why. Chair Curley stated he wanted longer than 90 days as the summer is approaching. Corbo stated the board does have the ability to put a moratorium on licenses, he stated the board has some discretion with this moratorium. Chair Curley Moved; Board Member Bacon Seconded; and it was voted to establish a moratorium on the transfer of shellfish licenses as stated in Section 7.7 relative to one of the transferees is a non-natural person until September 30, 2023, including a finding that this action is appropriate in the best interest for the fishery and the environment. Chair Curley closed Public Hearing P.

The Shellfish Department has been intently listening to the shellfishing community discussions about the licensing of corporations and other business entities to Wellfleet grants. It has become abundantly clear to us that the shellfishing community believes that the privilege and benefits of running a shellfish business on Wellfleet's tidal flats should be reserved for domiciled natural person residents of the Town only.

We agree with this and reference this paragraph in the Wellfleet Shellfishing Policy and Regulations, Section 2. Shellfishing Policy for the Town of Wellfleet, Purpose of Regulations:

wellfleet-ma.gov/shellfish-department
Phone (508) 349-0325  shellfish@wellfleet-ma.gov

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Furthermore, we agree that intertidal lands suitable for aquaculture are a limited resource. There is not much space available, and the Town has the obligation to determine how to best allocate this resource amongst the many people who would want access to it.

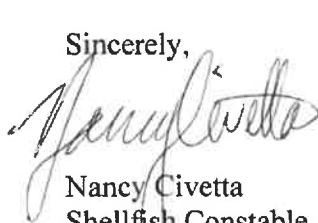
In addition, while we never really got to learn other ways that businesses could shield themselves from liability and litigation, in the end, we believe that it is not the role of the Town to provide a way for businesses to protect themselves. Each business is different, each family situation is different, and therefore, shellfishermen business owners should be seeking legal and financial counsel to understand how to best protect themselves. This is not the Town's responsibility.

Finally, the easiest and least ambiguous way for the Town to issue grant licenses is to allow them to be issued only to natural persons who are domiciled in Wellfleet. Allowing corporations, LLCs, trusts and other legal entities and institutions to hold grant licenses would add layers of complexity to the department's discovery and enforcement that are beyond our means. We believe that it would put an undue administrative and enforcement burden on the department, which is not in the public interest.

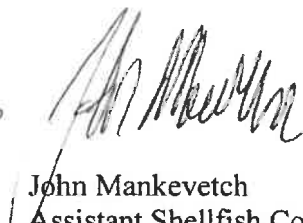
In 2022, Wellfleet was number one in the state for the value of its town-managed shellfish landings at \$9.5M.

It is a privilege not a right to hold an aquaculture license and a shellfishing permit, and it is up to the Town to define how it wishes to issue these. We agree with the Selectboard's plan to hold a public hearing on Sept. 5 to read through and discuss the necessary revisions to our regulations in order to prohibit corporations and business entities from holding shellfish grant licenses in Wellfleet. This will help ensure that monies generated from shellfishing businesses in Wellfleet are going into the pockets of Wellfleet residents and keeping the Town economically viable year-round.

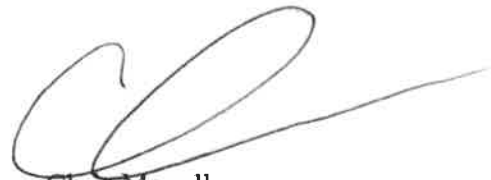
Sincerely,



Nancy Civetta
Shellfish Constable
Town of Wellfleet



John Mankevetch
Assistant Shellfish Constable
for Propagation
Town of Wellfleet



Chris Manulla
Deputy Shellfish Constable
Town of Wellfleet

Town of Wellfleet
Shellfishing Policy and Regulations

Last Amended 04/09/13, 06/04/13, 7/16/13, and 01/28/14, 06/10/14, 8/05/14, 09/16/14, 03/24/15,
05/12/15, 08/11/15, 09/08/15, 12/08/15, 01/26/16, 4/12/16, 9/13/16, 12/6/16, 3/15/17, 8/22/17, 5/22/18,
1/15/19, 05/28/19, 07/23/19, 09/24/19, 01/14/2020, 07/28/2020, 09/08/2020, 04/27/2021, 06/22/2021,
09/14/2021, 03/08/2022, 06/28/2022, 12/20/2022, 04/04/2023, 04/18/2023, 05/23/2023
(changes are highlighted)

All References to Massachusetts General Law (MGL) and the Code of Massachusetts Regulations
(CMR) are valid as of 2014

TABLE OF CONTENTS

Section 1 Definitions

Section 2 Shellfishing Policy for the Town of Wellfleet / Purpose of Regulations

Section 3 Informing the Public of Information and Meetings Concerning the Fishery

- 3.1 Posting Policy and Regulations
- 3.2 Posting of Hearings on Shellfish Matters Held by the Selectboard
- 3.3 Open Meeting Law

Section 4 General Regulations (Applying to Noncommercial, Commercial and Aquaculture)

- 4.1 Areas Where Commercial and Noncommercial Shellfishing May Take Place
- 4.2 Boundary and Area Locations
- 4.3 Landing of Shellfish
 - 4.3.1 Landing of Shellfish
- 4.4 Daily Limit
- 4.5 No Landings in Excess of Daily Limit
- 4.6 Landing Shellfish Before Shucking
- 4.7 Daily Time Limits
- 4.8 No Shellfishing Below 28 Degrees Fahrenheit
- 4.9 Poaching
- 4.10 Disturbance of Grant by Other Than Licensee
- 4.11 License and/or Permit Required
- 4.12 Inspection on Demand
- 4.13 Display of Permit/License
- 4.14 Possession of Seed Restricted
- 4.15 Methods of Harvest
- 4.16 Detrimental Practices of Harvesting Prohibited
- 4.17 Handpicking or Scratching-Only Areas
- 4.18 Transplanting
 - 4.18.1 Outside Wellfleet Waters
 - 4.18.2 Into Wellfleet Waters
 - 4.18.3 Harvesting Seed from Wild Generally Not Allowed
- 4.19 Areas Restricted to Use by Permit Class
- 4.20 Annual Opening and Closing of Scallop Season
- 4.21 Motorized Vehicles on Beaches

Section 5 Noncommercial Shellfishing

- 5.1 Seasonal Restrictions: Open and Closed Areas
- 5.2 Permits:

May 23, 2023
updated
Changes

5.2.1 Eligibility for Noncommercial Permits

5.2.2 Noncommercial Permit Fee Schedule

5.3 Noncommercial Shellfishing Regulations:

5.3.1 Required Icing and Shading of Harvest in Warmer Weather

5.3.2 Cannot Harvest for Commerce

5.3.3 Noncommercial Catch Limits

Section 6 Commercial Shellfishing

6.1 Commercial Permits

6.1.1 Eligibility for Commercial Permits

6.1.2 Domicile Requirement and Exception

6.1.3 Commercial Permit Requirements

6.1.4 Commercial Permit Fee Schedule

6.1.5 Hardship Exemption

6.2 Commercial Shellfish Regulations

6.2.1 Required Icing of Product

6.2.2 Harvest Must Be Tagged

6.2.3 Minors Under fourteen (14) Without Permit

6.2.4 Commercial Catch Limits

6.2.4.1 Bay Scallops

6.2.4.2 Mussels

6.2.4.3 Oysters

6.2.4.4 Quahogs

6.2.4.5 Razor Clams

6.2.4.6 Sea Worms

6.2.4.7 Soft Shell Clams

6.2.4.8 Blood Ark Clam or Ponderous Ark Clam

6.3 Daily Area Catch Limits

6.4 Seasonal and Other Restrictions: Open and Closed Areas

6.4.1 Chipman's Cove

6.4.2 Duck Creek

6.4.3 Herring River

6.4.4 West Side

6.4.5 Egg Island

6.4.6 Blackfish Creek

6.5 Use of Motorized Vehicles for Shellfishing

6.5.1 Motorized Vehicles on Beaches

6.5.2 Terms and Conditions for Use of Motorized Vehicles

6.5.3 Speed Limit on Beaches and Intertidal Areas

6.5.4 Allowed Line of Access for Vehicles

Section 7 Shellfish Aquaculture

7.1 Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Subdivided by the Town

7.2 Previous Established Grants That Become Available

7.3 License Fee

7.4 Location of Areas Licensed for Aquaculture (Grants)

7.5 Conditions for Use of Area Licensed for Aquaculture

7.5.1 Access to Areas Licensed for Aquaculture is Required

7.5.1.1 Vehicle Access to Grants

7.5.1.2 Non-vehicular Access to Grants

7.6 Process for Approval of Aquaculture Licenses

7.6.1 Application Procedure

7.7 Moratorium on Aquaculture Licenses

7.8 Issuance of Licenses for Aquaculture

- 7.8.1 Eligibility Requirements
- 7.8.2 Domicile Requirement and Exception
- 7.8.3 Renewal of Aquaculture Licenses
- 7.8.4 Limit on Individuals Licensed to Use a Grant
- 7.8.5 Working of Grants by Non-Licensees
- 7.8.6 Limit on Size of Grant
- 7.8.7 Grants Established Before Aug 1, 1993
- 7.8.8 Aquaculture Research and Development Projects
 - 7.8.8.1 License for Aquaculture Research and Development
 - 7.8.8.2 Initial Terms of License
 - 7.8.8.3 Plan of Project
 - 7.8.8.4 Dissemination of Data and Results
 - 7.8.8.5 Excess Product Returns to Town
- 7.9 Rights of Use and Transfer
- 7.10 Inheritance of Rights to Use an Aquaculture License (Grant)
- 7.11 Liability of the Town
- 7.12 Evidence of Productivity: Use it or Lose It
 - 7.12.1 Minimum Levels of Investment and Production
 - 7.12.2 Failure to Meet Production Levels
 - 7.12.3 Waiver of Production Requirements
 - 7.12.4 Extension of Licensed Area (Grant): Investment and Production
- 7.13 Annual Report
 - 7.13.1 Due Date
 - 7.13.2 Penalization for False Report
 - 7.13.3 Notification of Failure to Meet Minimum Requirement
- 7.14 Annual Inspection of Each Grant
- 7.15 Shellfish Seed
 - 7.15.1 Required State Seed Permit
 - 7.15.2 Special Circumstances for Taking of Seed
 - 7.15.3 Use of Spat Collecting Devices
 - 7.15.4 Catch Limit for Seed Specified of Permit
 - 7.15.5 No Seed Harvested by Dragging
- 7.16. Undersized Oysters, Quahogs and Surf Clams
 - 7.16.1 Containers Holding Undersized Shellfish Must Be Tagged
 - 7.16.2 Sale Only from Grower to Primary Buyer
 - 7.16.3 Petite Oysters
 - 7.16.4 Undersized Quahogs aka “Gems “or “Vongeles”
 - 7.16.5 Undersized Sea/Surf Clams aka “Butter” Clams
- 7.17 Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season
- 7.18 Predator Control
 - 7.18.1 No Lethal Predator Control Measures
 - 7.18.2 No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit
 - 7.18.3 No Harm to Endangered Species
- 7.19 Aquaculture Gear and Equipment
 - 7.19.1 Grants Shall Be Marked
 - 7.19.2 Height and Arrangement of Equipment
 - 7.19.3 Marking of Gear
 - 7.19.4 Removal of Damaged Gear or Equipment
 - 7.19.5 Overwintering of Equipment on Grants
 - 7.19.6 Fines for Gear Violation
- 7.20 Buffer Zones
- 7.21 Exception to Hours of Operation
- 7.22 Hydraulic Harvesting of Shellfish from Grant Areas is Prohibited
- 7.23 Extension of Acreage Without Permission and Resolution of Boundary Disputes

Section 8 Commercial Shellfishing: Dragging and Dredging

- 8.1 Areas Closed to Dragging/Dredging
- 8.2 One Drag/Dredge at a Time
- 8.3 Size of Drag / Dredge
- 8.4 By-Catch Limited to 20%
- 8.5 No Hydraulic Harvesting
- 8.6 Commercial Permit Required for Dragging/Dredging
- 8.7 Vessels Must be Registered/Documented
- 8.8 Landing of Catch
- 8.9 No Dragging / Dredging Near Licensed Areas

Section 9 Commercial Shellfishing: Diving for Shellfish

- 9.1 Areas Where Diving is Allowed
 - 9.1.1 South of the No-Drag Line
 - 9.1.2 North of the No-Drag Line
- 9.2 No Diving Near Licensed Areas
- 9.3 Flag Requirements
- 9.4 Daily Diving Limits
- 9.5 No Diving in Channel

Section 10 Eeling

- 10.1 Eeling Permit Required
- 10.2 Fykes Not Allowed
- 10.3 No Taking of Glass Eels
- 10.4 Examination of Catch
- 10.5 Catch Limits

Section 11 Enforcement

- 11.1 Enforcement Personnel
- 11.2 Penalties for Poaching or Theft
- 11.3 Authority to Revoke Aquaculture License
- 11.4 Non-Criminal Disposition
- 11.5 Penalty Fees
- 11.6 Duration of Shellfishing Permit Suspensions
- 11.7 Revocation of Shellfishing Permits
- 11.8 Acceptance of Suspension Without Request for Appeal
- 11.9 Disposition of Unlawful Catch
- 11.10 Prior Terms Revoked
- 11.11 Severability Clause

Appendix A Area Maps

Appendix B GPS Coordinates

Appendix C Wellfleet Harbor/No Drag Lines

Section 1. Definitions

*Unless otherwise identified, all cited Sections refer to sections of the Town of Wellfleet Shellfishing Policy and Regulations. The terms listed in this Section, when used in the Town's **Shellfishing Policy and Regulations**, shall have the meanings that follow:*

Annual Report - A report that must be submitted to the Town every year before February 28th which includes the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from a licensed aquaculture area, and an estimate of the total number of each kind of shellfish at the time of such report, planted or growing thereon ([MGL Chapter 130; Section 65](#)).

Aquaculture - The farming of aquatic marine organism including, but not limited to fish, mollusks, crustaceans, echinoderms and plants. Farming implies some sort of intervention in the rearing process to enhance production including, but not limited to controlled propagation, feeding and protection from predators.

Aquaculture License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land, under coastal waters (1) to plant and grow shellfish using in-bottom or off-bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130: Section 57](#)).

Aquaculture Licensed Area (Grant) - See Licensed Area.

Aquaculture Permit (See Permit)

Basket Rake - A hand-held implement used for the harvesting of shellfish, which is similar to but longer than a standard clam hoe, which has a basket and no more than twenty (20) teeth, is no wider than 12 inches at its widest part, does not have a T handle, and is only to be used on foot.

Blood Ark Clam and Ponderous Ark Clam - Bivalves of the species *Anadara ovalis* and *Noetia ponderosa* are some of the few marine mollusks having red blood, due to the presence of hemoglobin. Their shells grow to a length of approximately two or three inches and are fairly thick and sturdy. Each of the two valves has approximately 35 radiating ribs. The complete bivalve, when viewed from the end, is heart-shaped.

Selectboard - The Wellfleet Selectboard (BOS); Wellfleet's elected executive Board, designated by the State ([MGL Chapter 30](#)) as the regulatory Board that has jurisdiction over shellfishing in the Town.

Bull Rake - A T-handled hand-held and hauled implement used for the harvesting of shellfish. It shall be 12 inches or wider and have a fixed basket and teeth.

Bushel - U.S. dry measure; 2150.42 cubic inches, or 32 quarts.

By-Catch - The incidental capture of non-target species.

Captain - The master or individual in charge of a vessel.

Channel - The area marked by U.S. Coast Guard navigation buoys indicating a navigable way of passage.

Chinese Hats - Cones or disks of plastic, usually in stacks, coated with mortar with high lime content, used to collect oyster spat.

Clam Rake - A hand tool of typically eight (8) tines or less, used to manually bring clams to the surface of the substrate.

CMR - Code of Massachusetts Regulations.

Commercial Harvest - The harvest of shellfish for sale, trade, or other consideration.

Container - Any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from other shellfish after harvest, on a lease, or from the entire load or shipment.

Constable (Warden) - The municipal employee, appointed by the Selectboard, who is in charge of administering the management of the fishery; the head of the Shellfish Department of the Town.

(To) Cull - to remove dead, dying, undersized or otherwise unsuitable organisms (also, the organism which is removed).

(To) Dig and Take - (archaic); See **(To) Harvest**

(To) Dive - The use of SCUBA, surface supplied air, or snorkel to harvest shellfish.

DMF - Division of Marine Fisheries.

Documented Vessels - Commercial or recreational vessels registered through the federal system which have a certificate of documentation, recognized both nationally and internationally, as well as an Official Number permanently affixed to the hull.

Domiciled Resident - See **Resident**

Drag / Dredge - A heavy metal frame with an attached bag, which is towed or dragged along the seafloor to catch bottom dwelling shellfish. Some have metal teeth along the base of the frame that act like a rake.

Extension - An extension of a licensed area abutting a pre-existing area licensed by the same individual.

Fyke - A long bag-shaped fishing net held open by hoops that act as a cul-de-sac funnel.

Gems (Vongoles) - Quahogs between 7/8 and 1 inch wide (thickness of the hard clam across both valves at the hinge).

Glass Eel - Eel in its transparent, post-larval stage.

Grant - See **Aquaculture License/Licensed Area**

(To) Handpick - The transfer of shellfish to a container from the substrate by hand or with a hand-held tool of eight (8) tines or less.

(To) Harvest - To gather shellfish or other marine organisms in a container of any sort after sorting and separating them from what has initially been taken from the habitat.

Harvesting Area - An area approved for the taking of shellfish.

Handpicker - An individual who practices handpicking.

Hinge Width - The distance between the convex apex of the right shell and the convex apex of the left shell.

Intertidal - The land or area between the mean high and the mean low watermarks.

Jerk Rake - modified bull rake employing a harness.

(To) Land - To bring harvested shellfish by vessel to the Town Pier and to tie up before proceeding elsewhere; to bring harvested shellfish ashore above the mean high water line.

License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land under coastal waters (1) to plant and grow shellfish in bottom or off bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130](#), Sections 57 - 68).

Licensed Area (Grant) - a designated bottom area, certified by The Division of Marine Fisheries (DMF) and licensed by a vote of the Selectboard, on which the licensee may plant, grow and harvest shellfish (MGL Chapter 130; Sections [57](#) & [68](#)).

License Holder - A person or persons, or a firm or corporation holding a license issued by the Selectboard under the provisions of [MGL Chapter 130](#).

Licensee - See License Holder

Long Raking - method of harvesting shellfish using a long handled bull or basket rake from a boat.

MGL - Massachusetts General Law.

Mean High Water (MHW) / Tide - The average elevation of all high waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of high tide.

Mean Low Water (MLW) / Tide - The average height of the low waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of low tide.

Mussel - A marine mollusk of the species *Mytilus edulis*.

Oyster - A marine mollusk of the species *Crassostrea virginica*.

Permit - A certificate granting permission to engage in specific activities issued by the appropriate authority.

~ Aquaculture / Seed Permit, issued by DMF

State Aquaculture Permit: "seed" or propagation permit as defined in MGL, [Chapter 130](#); [Sections 80](#) and [69](#) and [CMR 322, Section 15.04 \(b\)\(1\)](#);

Authorizes the possession and growing of seed shellfish from an approved source. May be endorsed for the use of upwellers or similar nursery systems to enlarge hatchery seed for planting, but not for resale. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, tagging and record keeping is approved by the Director.

~Commercial Shellfishing Permit (Section 6.1), issued by BOS.

~ Eeling Permit (Section 10), issued by BOS.

~ Noncommercial, Non-resident, Non-taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

~ Noncommercial Resident or Taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

~ Propagation Permit ([Aquaculture Management - Marine Fisheries propagation permit](#)) (Section 7.15.2), issued by DMF.

~ Shellfish and Seaworm Permit ([CMR 322, Section 7.01 \(2\) \(g\)](#)), issued by DMF:

Authorizes only the named individual to harvest, possess and land shellfish and seaworms for commercial purposes, and may be endorsed for the shucking of bay scallops.

~ Shellfish Transaction Card ([CMR 322, Section 7.01 \(2\) \(k\)](#)), issued by DMF:

Authorizes only the named individual holding a commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

~ State Commercial Permit ([Commercial Fishing Permit / Shellfish Permit](#)), issued by DMF:

Allows an individual to take, land and sell (to a licensed dealer) shellfish and seaworms. A shellfish ID card, from the Division, and town permit are also required.

Petite Oysters – Aquaculturally reared oysters, whose height (from hinge to shell margin) is between 2.5 and 3 inches.

Planted Areas - Areas in which the Shellfish Department has planted shellfish for purposes of propagation or transplanting.

Poaching – The harvesting of shellfish, illegally, from any area.

Quahog - A marine mollusk of the species *Mercenaria mercenaria*, commonly called the hardshelled clam.

Quart - 67.201 cubic inches (U.S. Dry Measure).

Raking - Gathering oysters and/or other materials using a rake and then transferring this accumulation to a container, vehicle or vessel.

(To) Relay - See **Transplant**

Registered Vessels - Motorized vessels of any size, including those that don't primarily depend on mechanical propulsion, registered with the Massachusetts Office of Environmental Law Enforcement at the Registry and Titling Bureau.

Resident - A declared resident of the Town of Wellfleet. Written proof that Wellfleet is the domicile as well as the legal residence of the applicant shall be required to the satisfaction of the Shellfish Constable and Selectboard. Domicile will be established after one year of residency in Wellfleet is demonstrated. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data, or passport.

Scallop - A marine mollusk of the species *Aequipecten irradians*, commonly called Cape scallop or bay scallop.

(To) Scratch - To harvest clams with the aid of a clam rake.

Seed - Quahogs, with the exception of gems, less than (1) one inch wide, across both valves at the hinge, soft-shell clams less than (2) two inches in length (the largest measurement, 90 degrees from the hinge to outer margin of the shell); oysters, with the exception of petites, less than (3) three inches in height (from hinge to outer margins of the shell), and scallops without a defined annual growth ring.

Seed Permit - See **Permit**.

Shellfish Constable - See **Constable**

Softshell Clam (Steamer) - A softshell clam of species *Mya arenaria*.

Shellfish - Softshell clams, whelks, mussels, oysters, snails, quahogs, razor clams (razor fish), bay scallops, sea scallops, sea clams, and blood arks.

Spat - An oyster or similar bivalve mollusk in the larval stage, especially when it has settled on and attached itself to a surface on which it can then proceed to grow.

Subtidal - The body of water or area below that of mean low water for spring tides; habitats rarely, if ever, completely uncovered by low tides.

Surf Clam (Sea Clam) - A clam of species *Spisula solidissima*.

(To) Take - To harvest.

Taxpayer – An individual or corporation who owns land in Wellfleet for which they are taxed by the Town.

Tongs - A hand-held and hauled implement used for the harvesting of oysters. They have a scissor mechanism to close two baskets upon themselves.

Town - The town of Wellfleet.

Transaction Card - See **Permits**; Shellfish Transaction Card.

(To) Transfer - To grant the right to use a previously established, licensed area, as allowed by MGL Chapter 130: Sections 57 and 58, and approved by a vote of the Selectboard.

Transferee - Individual or entity to whom the right to use a previously established, licensed area for aquaculture has been granted by a vote of the Selectboard.

(To) Transplant - The moving of shellfish from one area to another.

Undersized Oysters, Quahogs and Surf Clams - Oysters whose greatest length is between 2.5 and 3"; quahogs whose hinge width is between 7/8" and 1"; surf clams whose shell diameter is between 1 1/2" and 5".

Warden - See **Constable**

Waters - Coastal waters, tidal flats, tidal creeks, and all salt or fresh waters within the boundaries of the Town of Wellfleet.

Week - The calendar week commencing at 00:01 A.M. Sunday and ending at 12:00 Midnight Saturday.

Wet Storage - The temporary placement of legally harvested shellfish from an area open to shellfishing onto an area licensed for aquaculture, for the purpose of maintaining their health in an optimal environment or for the purpose of allowing them to purge themselves of sand and other inedible matter, before transporting them to market.

Section 2. Shellfishing Policy for the Town of Wellfleet

Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including [Massachusetts General Law Chapter 130](#), [Code of Massachusetts Regulations 322](#), and the current Best

Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

To implement this policy, the Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing.

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Section 3. Informing the Public of Information and Meetings Concerning the Fishery

3.1. Posting of Shellfishing Policy and Regulations

Current copies of this Shellfishing Policy and these Regulations, and any amendments thereto, will be available in the Selectboard's office, the office of the Town Clerk, the Shellfish Department office, and the Wellfleet Public Library. They shall be also posted at the Wellfleet and South Wellfleet Post Offices ([MGL Chapter 130: Section 52](#)), as well as on the official website of the Town.

3.2. Posting of Hearings about Aquaculture Licenses Held by the Selectboard

As required by [MGL Chapter 130: Section 60](#), all hearings held by the Selectboard for the granting, transferring or renewal of aquaculture licenses must be posted in three public places, and advertised in a local newspaper at least ten (10) days before that hearing is to take place, as well as the Town's web site as soon as the date of the hearing has been determined by the Board. The posting must provide the name of the applicant(s), their residence, and the date of the filing of the application, and the specific location and description of the acreage to be licensed.

3.3. Open Meeting Law

Compliance with [MGL Chapter 30A: Sections 18-25 \(Effective July 1, 2010\)](#) (the Open Meeting Law) and [940 CMR 29.00](#) is required for all municipal meetings, above and beyond the requirements of Sections 3.1 and 3.2.

Section 4. General Regulations (Applying to the Noncommercial and Commercial Shellfisheries As Well As Shellfish Aquaculture)

4.1. Areas Where Commercial and Noncommercial Shellfishing May Take Place

(See also Appendixes and Section 8.1 [Areas Closed to Dragging and Dredging](#))

Commercial-only area: north of a line from the seaward end of the breakwater to the easternmost tip of Great Island (with the exception of Chipman's Cove) marked by a red and white striped pole. This area is subject to seasonal restrictions.

Noncommercial-only area: (Area 2, in CCB 11; see Section 4.2) off Indian Neck, south from the Breakwater to the second groin. This area is subject to seasonal restrictions (see Section 5.1).

Commercial and Noncommercial area: includes all the rest of the harbor except buoyed grants. This area is subject to seasonal restrictions

4.2. Area and Boundary Locations (See Appendix A and C for Area Maps and Appendix B for Specific GPS Locations)

4.2.1. Areas

Area 1: All marine waters and intertidal areas north of the No-drag Line, excluding Chipman's Cove.

Area 2: (Within CCB 11.) All marine waters and intertidal areas landward of the area enclosed by the #14 navigational beacon at the seaward end of Indian Neck breakwater to a point near the #12 channel marker and thence inshore to the end of the first groin south of the Burton Baker Landing.

Area 3: All marine waters and intertidal areas in the waters of the Town, excluding Areas 1 and 2.

4.2.2. Boundaries

Blackfish Creek: (Within CCB 14.) All marine waters and intertidal areas enclosed east of a boundary from the parking lot at Fox Island, marked with a striped pole, to the western edge of the house at the northwestern tip of Lieutenant's Island, and north of the Lieutenant's Island Bridge.

Chipman's Cove (within CCB 13): All marine waters and intertidal areas enclosed south of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, and east of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

Duck Creek (within CCB 13): All marine waters and intertidal areas enclosed north of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, east of Commercial Street, and south of Uncle Tim's Bridge.

East Side (within CCB 11): From the breakwater at Indian Neck to the Eastham Town Line.

Eastham / Wellfleet Town Line: (Southernmost boundary of CCB 11.) For the purposes of shellfishing, the boundary runs down the middle of Hatches Creek, and westerly from the official boundary marker in Hatches Creek to the Eastham/Wellfleet boundary marker on Billingsgate Island and thence in the same direction to State waters.

Egg Island/Egg Island Channel (within CCB11): Channel and tidal flats south of Power's Landing and Keller's Corner, and north of the block grants.

Herring River (within CCB 12): All marine waters and intertidal areas enclosed west of a boundary from the main flagpole at the Chequessett Neck Club to a point on the tip of Great Island, marked with a striped (candy cane) pole, and south of a boundary determined by the Massachusetts Division of Marine Fisheries, marked with poles on either side of the river.

Inside L Pier (within CCB 13): All marine waters and intertidal area enclosed by the L Pier, and west of a boundary from the southeastern tip of the L Pier to the eastern high point of the Town Boat Ramp.

Main Harbor (within CCB 11): All marine waters and intertidal areas within Wellfleet Harbor, excluding Blackfish Creek, Chipman's Cove, Duck Creek, Herring River, Mayo Beach and South Lieutenant's Island.

Mayo Beach (within CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the main flagpole at the Chequessett Neck Yacht Club to a point on the tip of Great Island, marked with a striped pole, north of the No Drag Line, and west of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

South Lieutenant's Island (CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the osprey nest pole on the southern end of Lieutenant's Island to the Eastham/Wellfleet marker in Hache's Creek, and south of the Lieutenant's Island Bridge.

Wellfleet Harbor (CCB 10, 11, 12, 13, and 14): All marine waters and intertidal areas enclosed north of the Eastham/Wellfleet Town Line, and east of a boundary from the Eastham / Wellfleet boundary on Billingsgate Island to the southern tip of Jeremy Point.

West Side (within CCB 11): The portion of the west side of Wellfleet Harbor immediately southeast of the no quahog dredge line (see below), offshore from the area commonly known as Middle Meadow.

No-drag Line:

1: Line extending from the navigational beacon (#14) at the seaward end of Indian Neck breakwater to a point on the tip of Great Island, marked with a striped (candy cane) pole.

2: Line extending from the striped pole on Field Point to the boathouse on Lieutenant Island.

No-quahog-dredge Line: Line extending from a point in Middle Meadow marked with a striped pole, towards the US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach, ending where this line meets the No-drag Line (near the rocks known as Old Saw).

4.3. Landing of Shellfish

Landing of Shellfish: All shellfish harvested in Wellfleet shall be landed in Wellfleet.

4.4. Daily Limit

No permit holder shall take shellfish or other marine organisms in excess of the daily limit. Noncommercial limits (Section 5.3.2); commercial limits (Section 6.3).

4.5. No Same Day Landings in Excess of Daily Limit

No person shall come ashore with shellfish and return to the waters of the Town on the same day for the purpose of taking additional shellfish in excess of the daily permit limit.

4.6. Landing Shellfish Before Shucking

No shellfish shall be brought ashore except in their shells with the exception of sea scallops.

4.7. Daily Time Limits

No person shall harvest, pick, dig, pile, take or carry away any shellfish from the waters of the Town, by any method between one half (1/2) hour after sunset and one half (1/2) hour before sunrise. ([MGL Chapter 130: Section 68](#))

4.8. No Shellfishing Below 28 Degrees Fahrenheit

Except in areas licensed for aquaculture, no shellfishing shall be carried on when the air temperature is below 28 degrees Fahrenheit (2 degrees Celsius), as determined by the Shellfish Constable and as indicated by a buoy displayed on the flagpole next to the Shellfish Office, on the Shellfish Department answering machine and on the Town website.

4.9. Poaching

Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130; and Section 11. 6 [Revocation of Shellfishing Permits.](#))

4.10. Disturbance of Grant by Other Than Licensee

No one may in any way disturb the growth or arrangement of shellfish on a licensed area, or work a dredge, or use any other implements to harvest shellfish, or discharge any substance which may directly injure the shellfish upon a licensed area, or willfully damage, remove or tie up to any of a grant's designating boundary markers, without the express consent of the licensee. No one, while upon or sailing over any such licensed acreage may have overboard any implement for the taking of shellfish, under any pretense or purpose whatever, without the expressed consent of the licensee. (See MGL Chapter 130; [Section 66](#) and [Section 67](#))

4.11. License and/or Permit Required

All persons fourteen (14) years old or older engaged in taking, removing, or having in possession eels, sea worms or shellfish, including soft-shelled clams, quahogs, surf clams, sea clams, razor clams, oysters, mussels, and scallops, taken from the waters of the Town shall have an appropriate license or permit obtained and used only in accordance with all terms, conditions and restrictions.

4.12. Inspection on Demand

All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents.

4.13. Display of Permit/License

Individuals engaged in shellfishing, eeling or gathering sea worms must have a Town license or permit prominently displayed and show the same on demand to Shellfish Officers, Police Officers or other duly authorized agents.

4.14. Possession of Seed Restricted

No person who does not hold a state propagation permit or an aquaculture license shall have in his or her possession seed shellfish, defined as; quahogs less than one (1) inch wide (thickness of both valves across the hinge); soft-shell clams less than two (2) inches in length; oysters less than three (3) inches in height (except for aquaculture license holders under certain conditions as specified in Section 7.16 (Undersized Oysters, Quahogs and Surf Clams) or bay scallops without a well defined raised annual growth line. A violation of this regulation shall exist if the take contains more than 5% seed shellfish per batch (see Section 7.15 [Shellfish Seed](#)).

4.15. Methods of Harvest

The taking of any shellfish from the waters of the Town of Wellfleet by any method other than those commonly known as handpicking, long raking, bull raking, jerk raking, basket raking, scratching, tonging, digging, dragging or dredging (See Section 8: [Commercial Shellfishing: Dragging and Dredging](#)) will be prohibited. A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area.

4.16. Detrimental Practices of Harvesting by Hand Prohibited

It is prohibited to harvest any species of shellfish in a manner that inhibits the growth or survival of any other species of shellfish.

4.17. Handpicking or Scratching-only Areas

Handpicking, scratching or basket raking are the only permitted methods of harvesting shellfish, north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw, thence in the same direction to Great Island at Mean High Water except when otherwise allowed by the Selectboard. A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area. (See Appendixes for area maps and GPS coordinates.)

4.18. Transplanting

4.18.1. Transplanting Shellfish Outside of Wellfleet Waters

No shellfish of any size shall be taken out of the Town for the purpose of transplanting or to be placed in any waters outside the limits of the Town without the proper permits.

4.18.2. Transplanting Shellfish Into Wellfleet Waters

No shellfish shall be planted or transplanted into the waters of the Town, without the proper permits, certificates of origin, and approval by the proper authorities.

4.18.3. Harvesting Seed from the Wild Not Generally Allowed

The handpicking of oyster seed from the public resource is prohibited with the following exception: from time to time, under special conditions identified by the Shellfish Constable, recommended by the Shellfish Advisory Board and approved by a vote of the Selectboard, oyster seed may be taken for the purpose of transplantation.

4.19. Areas Restricted to Use by Permit Class

No holder of a commercial permit shall take shellfish from an area reserved for the holders of noncommercial permits and vice-versa.

4.20. Annual Opening and Closing of Scallop Season

Scallop season shall open October 1st and shall close April 1st the following year, except when otherwise regulated.

4.21. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or intertidal areas. (See Section 6.5 Use of Motorized Vehicles for Shellfishing.)

Section 5. Noncommercial Shellfishing

5.1. Seasonal Restrictions: Open and Closed Areas

The opening and closing of noncommercial shellfishing areas, as well as catch limits, may be subject to change by vote of the Selectboard. (See Section 5.3.2 Noncommercial Catch Limits) Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Chipman's Cove: closes for the taking of all shellfish on April 30 and reopens on the last Sunday in October, unless otherwise regulated.

Area 2 (Indian Neck): open for the harvesting of shellfish, with the following limits and on the following days, unless otherwise regulated:

- June 1 through September 30; will be open Sundays and Wednesdays, annually.
- October 1 through May 31; will be open seven (7) days a week, annually.

Area 3 (The rest of the Harbor with the exception of commercial-only areas): Open for the harvesting of shellfish on the following days, unless otherwise regulated:

- June 1-September 30; will be closed to all noncommercial shellfishing, annually.
- October 1-May 31; will be open seven (7) days a week, annually. (See Section 4.1.)

5.2. Permits

5.2.1. Eligibility for Noncommercial Permits

Annual and seasonal noncommercial permits may be issued to anyone, twelve (12) years of age or older. Veterans of the Commonwealth of Massachusetts are entitled to a fee not greater than the fee charged to residents of the Town of Wellfleet upon presentation of their Veteran ID card. In addition, non-resident employees of the Town of Wellfleet are entitled to one (1) recreational shellfishing permit at the resident rate; this is only valid for the employee him- or her-self while currently employed by the Town.

5.2.2. Noncommercial Permit Fee Schedule (amended 12/20/2022: \$10 increase)

Annual Permits (Jan.1-Dec. 31)	
Resident or Taxpayer	70.00
Resident or Taxpayer over 65 years old	30.00
Nonresident or Nontaxpayer	220.00
Massachusetts Resident Veteran Permit*	70.00
Massachusetts Resident Veteran Permit over 65 years old *	30.00
Town of Wellfleet Employee	70.00
Town of Wellfleet Employee over 65 years old	30.00
Seasonal Noncommercial Permits (June 1 – Sept. 30)	
Resident or Taxpayer	50.00
Non-resident or Non-taxpayer	95.00
Massachusetts Resident Veteran Permit*	50.00
Town of Wellfleet employee	50.00
Replacement Fee (for all categories)	30.00

*To enjoy the Massachusetts Veteran Discount, applicants must provide:

1. A Massachusetts license bearing the Veteran seal,
2. A Massachusetts license and a DD-214 form
3. A Massachusetts license and a Veteran ID card issued by the U.S. Department of Veteran Affairs

5.3. Noncommercial Shellfishing Regulations

5.3.1. Required Icing and Shading of Harvest in Warmer Weather

During the *Vibrio* control period, as determined annually by the DMF (see 322 CMR 16.00 Shellfish Harvest and Handling) due to concerns about the presence of *Vibrio parahaemolyticus*, oysters taken by noncommercial permit holders shall be put in a container and surrounded by ice made from potable water within two (2) hours of the time when the first oyster (harvested on a given day) is taken from the water or, in the case of intertidal harvest, the time of first exposure to the air by tide.

All oysters taken from the water shall be protected from direct exposure to sunlight during harvest and subsequent transport from the harvest area to any destination, at all times.

With the first offense of this section, the harvester will lose his or her catch. With any subsequent offense, the harvester shall lose his or her catch and noncommercial permit for one year.

5.3.2. Cannot Harvest for Commerce

No person holding a noncommercial permit shall harvest shellfish, eels or sea worms for the purpose of sale, trade or other consideration.

5.3.3. Noncommercial Catch Limits

The total amount of shellfish, comprising oysters, quahogs, soft-shell clams or razor clams, blood ark clam or ponderous ark clam taken in one (1) week shall not exceed ten (10) quarts, and the total amount of mussels taken in one (1) week shall not exceed ten (10) quarts, or the total amount of scallops taken in one (1) week shall not exceed one (1) bushel, or the total amount of surf (sea) clams taken in any one (1) week shall not exceed one (1) bushel. The total number of sea worms taken in one (1) day shall not exceed twenty-four (24). There is a 20 lb. limit on the amount of eels that can be taken in one day.

Section 6. Commercial Shellfishing

6.1. Commercial Permits

6.1.1. Eligibility For Commercial Permits

A commercial permit may be issued to any person fourteen (14) years of age or older, who is a domiciled resident of Wellfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen (14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person’s birthday. Residents over 65 may be issued senior permits.

Commercial permits will not be issued to unnaturalized foreign born persons who have not resided in Barnstable County at least five (5) years prior to making application ([MGL Chapter 130: Section 55](#)).

6.1.2. Domicile Requirement and Exception

Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet, with the exception of those who have previously held a commercial permit for at least two (2) years, and who have temporarily lost housing in Wellfleet for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of domiciled residency, as defined in Section 2 of these regulations, and verified by the Shellfish Constable, must be resumed within eighteen (18) months from the time of the permit holder’s removal to another town or the permit will then be revoked.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the permit holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable’s decision to the Selectboard within 30 days.

No commercial permit or aquaculture license from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term, but they may re-apply for their annual commercial permit as per Section 6.1.3.

6.1.3. Commercial Permit Requirements

Annual commercial permits will be issued from December 1 through January 31st of the permit year, subject to a thirty (30) day review of the application by the Shellfish Constable. Annual commercial permits are valid from Jan. 1 through Dec. 31. Permits will only be issued after the applicant has shown proof of having a valid State commercial permit with a shellfish endorsement and a valid shellfish transaction card from the DMF. [CMR 322 7.01 \(2\) g, i, k](#)

6.1.4. Commercial Permit Fee Schedule (amended 12/20/2022 to require all grant license holders to purchase a commercial shellfishing permit)

Resident	\$310.00
Senior Resident (65 years or older)	\$60.00
Junior Resident (14-16 years old)	\$110.00
Eel Permit	\$3.00
Replacement Fee (for all categories)	\$20.00

6.1.5. Hardship Exemption

The Selectboard may at its discretion grant permits after January 31st if the applicant demonstrates **all three** of the following conditions:

- that unusual circumstances existed which would reasonably excuse a failure to file an application prior to February 1st, and
- that a substantial hardship would be caused by the refusal of a permit, and
- that the granting of the late permit would not affect the opportunity of applicants, who have applied in a timely manner, to harvest a reasonable quantity of shellfish.

6.2. Commercial Shellfish Regulations

6.2.1. Required Icing and Shading of Product

Annually, during the period of time that the DMF's *Vibrio* control plan is in effect, harvesters must comply with the State's regulations. (See 322 CMR 16.00 Shellfish Harvest and Handling.) With the first offense of this section, the harvester will lose his or her product. With any subsequent offense, the harvester shall lose his or her product and license and/or permit for one year.

6.2.2. Harvest Must Be Tagged

At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags.

6.2.3. Minors Under Fourteen (14) Without Permit

Persons under fourteen (14) are permitted to harvest shellfish in a commercial area while under the supervision of a parent or guardian holding a commercial permit. No shellfish may be taken in excess of the daily limit of the permit held by the parent or guardian.

6.2.4. Commercial Catch Limits

6.2.4.1. Bay Scallops

No vessel shall take more than ten (10) bushels (tied) of scallops, including shells. No more than twenty (20) bushels (tied), shells included, shall be taken by any vessel having two (2) or more permit holders on board, in one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.2. Mussels

There is no limit to the taking of mussels per commercial permit per day.

6.2.4.3. Oysters

a. Hand Picking: no commercial permit holder shall take more than five (5) bushels of oysters, including shells, per day.

b. Dragging / Dredging: No more than five (5) bushels of oysters including shells, per commercial permit holder shall be taken by a vessel in any one (1) given day. No more than ten (10) bushels including shells shall be taken by any vessel having two (2) or more commercial permits aboard in any one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.4. Quahogs

a. Hand Picking: No commercial permit holder shall take by raking more than five (5) bushels of quahogs, including shells, in any one (1) day.

b. Dragging / Dredging: No more than fifteen (15) bushels of quahogs including shells, shall be taken by a vessel having one (1) commercial permit aboard, in one (1) day. Captain of said vessel shall be cited for each violation. No more than twenty-five (25) bushels including shells shall be taken in one (1) day by a vessel having two (2) commercial permits aboard. The captain of said vessel shall be cited for each violation.

6.2.4.5. Razor Clams

No commercial permit holder shall take more than two (2) bushels of razor clams in any one day.

6.2.4.6. Sea Worms

No commercial permit holder shall take more than forty-eight (48) sea worms in any one (1) day.

6.2.4.7. Soft-shell Clams

No commercial permit holder shall take more than three (3) bushels of soft-shell clams in any one (1) day.

6.2.4.8 Blood Ark Clam or Ponderous Ark Clams

a. Hand picking: No commercial permit holder shall take more than 10 (ten) bushels of ark clams, including shells, in any one day.

b. Dragging/Dredging: No more than ten (10) bushels, including shells, shall be taken by a vessel having one (1) commercial permit holder, in one (1) day. No more than twenty (20) bushels, including shells, shall be taken in one (1) day by a vessel having two (2) commercial permit holders aboard, in one (1) day. The captain of said vessel shall be cited for each violation.

6.3. Daily Area Catch Limits - 1 bushel = 32 quarts

Area	Oysters	Quahogs	Soft-shell clams	Blood Ark/ Ponderous Ark Clams
Herring River	1 bushel	1 bushel	1 bushel	10 bushels
Mayo Beach	1 bushel	2 bushels	3 bushels	10 bushels
Duck Creek	1 bushel	1 bushel	1 bushel	10 bushels
Blackfish Creek	1 bushel	2 bushels	3 bushels	10 bushels
Main Harbor	5 bushels	5 bushels	3 bushels	10 bushels
Chipman's Cove	1 bushel	1 bushel	1 bushel	10 bushels
South Lt. Island	1 bushel	1 bushel	3 bushels	10 bushels

6.4. Seasonal and Other Restrictions: Open and Closed Areas

The opening and closing of these areas, as well as catch limits, may be subject to change by vote of the Selectboard. Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Dragging or diving within 25 feet of all areas licensed for shellfish aquaculture is prohibited. (See Section 8.9 No Dragging/Dredging Near Licensed Areas)

6.4.1. Chipman's Cove:

- a. Harvest dates: Chipman's Cove will close for the taking of all shellfish on April 30 and will reopen on the last Sunday in October of the current year, unless otherwise regulated.
- b. Landing Sites - All shellfish are to be landed at the end of Old Pier Road, at the Marina boat ramp or piers, or from a point on the road along the southern perimeter of the Cove nearest the harvesting site, unless permitted otherwise by the Shellfish Constable.
- c. Harvesting Restrictions-All shellfish are to be removed from the area at the time of harvest. No shellfish are to be left on the flats and removed at a later time of day, by any means or methods. Diving for shellfish is prohibited.
- d. Spat collection area-An area of Chipman's Cove for placement of oyster spat collection by shellfish grant license holders, approximately 300' by 300' marked by yellow buoys, will be so designated from June 1 through October 31 of current year, unless otherwise regulated.

6.4.2. Duck Creek:

- a. Harvest dates - Duck Creek will open for the taking of all shellfish on December 1 and will close on April 30, pending State approval, unless otherwise regulated.
- b. The taking of shellfish from the bulkheads, pilings and adjacent flats in the area of the "L" pier, behind the fuel dock and inshore of the finger piers near the boat ramp shall be PROHIBITED until further notice.

6.4.3. Herring River

Herring River will be open to shellfishing on a conditional basis as directed by the DMF. The dates of opening and closure will be approved by a vote of the Selectboard
The area is open to the taking of shellfish by Wellfleet Commercial permit holders only. Scuba diving for shellfish is prohibited.

6.4.4. West Side:

The West Side of Wellfleet is open to the taking of shellfish by any means EXCEPT by use of a quahog dredge.

6.4.5. Egg Island:

- a. The north side of Egg Island from the flag pole at Chequessett Country Club easterly to the Town Pier is open year round for the taking of quahogs and oysters.
- b. Diving from a boat is permitted with the usual restrictions and conditions. The use of scratcher and basket rakes and clam hoes will be allowed; no other methods of harvest are permitted. (See also Section 9 **Commercial Shellfishing: Diving for Shellfish**)

6.4.6. Blackfish Creek:

Blackfish Creek will be open year round for the taking of quahogs, soft-shelled clams and oysters.

6.4.7. South Lieutenant Island

South Lieutenant Island will be closed for the taking of oysters from June 1st through September 30th.

6.5. Use of Motorized Vehicles for Shellfishing

6.5.1. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or in

intertidal areas. (See Town of Wellfleet General Bylaws under ARTICLE VII GENERAL - [Section 24, Beach Vehicular Traffic By-Law.](#))

6.5.2. Terms and Conditions for Use of Motorized Vehicles

All use of vehicles to access areas licensed for aquaculture or other areas open to commercial permit holders, shall also be in accordance with the applicable general bylaws of the Town, and conditions, which may be imposed by the Conservation Commission.

6.5.3. Speed Limit on Beaches and Intertidal Areas

No person engaged in commercial shellfishing or aquaculture shall operate a motorized vehicle at a speed in excess of fifteen (15) miles per hour or a motorized vehicle which is dual wheeled or which has a gross vehicle weight (GVW) greater than nine thousand two hundred pounds (9200 lbs.) on any tidal beach or flat or other land below the mean-high water line.

6.5.4. Allowed Line of Access for Vehicles

Persons engaged in commercial shellfishing or aquaculture operating motorized vehicles on any tidal beach or flat or other land below the mean-high water line shall drive only on the foreshore of the tidal area below the high tide line but above the tidal flat, closely rounding every groin or other obstruction extending below the high water line, to a point opposite a licensed area, and thence to the licensed area. The traffic not directed to a licensed area shall be confined to the area below the high tide line above the tidal flat, closely rounding any groin or other obstruction extending below the high water line. Parking is permitted on the licensed area or in the access route to a licensed or legal harvesting area as described above.

Section 7. Shellfish Aquaculture

7.1. Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Surveyed and Subdivided by the Town.

Once areas are identified by the Shellfish Constable as potentially suitable for the location of shellfish aquaculture, and the areas are under the control of the Town, the Selectboard may exercise their discretion as the licensing authority for the issuance of license/s for shellfish aquaculture (grants) in compliance with [MGL Chapter 130](#). The Selectboard shall post notice of the availability and location of such acreage, as well as any applicable conditions and/or limitations upon such acreage, on the Shellfish Department's notice board, at Town Hall and on the [Town Website](#).

7.2. Previously Established Grants that Become Available

In the event that a licensed aquaculture area previously certified by the DMF becomes available, its status shall be posted by the Shellfish Constable (see Section 3; [Informing the Public of Meetings Concerning the Fishery](#)) for a period of 30 calendar days. If more than one qualified person (as described in Section 1 under Domiciled Resident, and Section 7.8.1 [Eligibility Requirements](#)) whose name does not appear on another license applies to hold the license, the Selectboard shall hold a public lottery within 14 days to impartially determine who shall be granted the right to use such available acreage for aquaculture. No shareholder, officer, director or other individual holding a similar position having a different title but exercising a similar role, of a corporation that currently holds an aquaculture license in Wellfleet may apply for such grants.

7.3. Annual License Fee

The annual fee for an aquaculture license to be paid to the Town by each licensee shall be \$25.00 per acre (or portion thereof), as required by [MGL Chapter 130, Section 64](#). Annual fees are due each year by February 28, when annual grant reports are due.

7.4. Location of Areas Licensed for Aquaculture (Grants)

Grants may be located in the following areas:

Area 1: On tidal flats off Mayo Beach and Chequesett Neck from the eastern boundary of the Town property at Powers Landing to the Town Pier, ~~and at least three hundred (300) feet northward of a line from the seaward~~

end of the Breakwater to the easternmost tip of Great Island, except in the area above mean low water on Egg Island.

Area 2: On tidal lands lying north and easterly of the Breakwater and of the northerly tip of Indian Neck.

Area 3: On tidal lands off Indian Neck from Omaha Road south to the eastern tip of Field Point.

Area 4: On tidal lands off the westerly side of Old Wharf Point and at the entrance to Loagy Bay.

Area 5: ~~On Egg Island shall be comprised of shellfish grant license #s 2000-6, 95-1 through 95-32, 752, 2002-1, 2002-1ext., 781A, 781AB, 781AC, and license #s 04-03, 2000-1, 2000-2, 2000-3, 2000-4, 2000-5, 2000-3ext., and 2000-1ext.~~ On Egg Island, in the area below the caption "Egg Island Grants" and as confined by the surveyed outline of grant boundary coordinates shown in red on the Plan of the Northerly Grants in Wellfleet Harbor as of May 30, 2019, prepared by Outermost Land Survey, dated June 16, 2021, as follows, from shellfish grant license #2000-06 clockwise: point 1 to 2 to 4 to 5 to 11 to 91 to 92 to 95 to 154 to 155 to 156 to 157 to 159 to 93 to 94 to 15 to 22 to 53 to 54 to 153 to 151 to 150 to 149 to 146 to 147 to 148 to 3 and back to point 1. For map, see Appendix E.

Commented [S1]: 04/04/2023

Commented [S2]: 05/23/2023

Approval of the proposed licensed area shall be determined by the Selectboard with appropriate regard for reasonable navigational and recreational interest in the areas concerned.

7.5. Conditions for Use of Area Licensed for Aquaculture

The Selectboard may license specific areas beneath the waters of the Town to individuals for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of [MGL Chapter 130](#), those set forth in current regulations of the Division of Marine Fisheries, these regulations or other town bylaws, as well as any specific conditions or restrictions set forth in the license by the Selectboard.

This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish upon privately owned property may not proceed over the objection of the property owner. This license does not authorize any damage to private property or other violation of private rights. The issuance of this license is not a determination of title or ownership. The licensee acknowledges that it is the responsibility of the licensee to obtain permission if requested in writing, from the property owner, before exercising the rights conferred by the license other than for the planting, growing and harvest of shellfish on that property. However, the license holder is on notice that the owners of the property described in the license may nevertheless bring an action for trespass in a court of competent jurisdiction. A license holder may not rely on this license as a defense to an action in trespass. (MGL Chapter 130; [Section 57.](#))

7.5.1 Access to Areas Licensed for Aquaculture is Required

There will be permitted and designated access to all licensed acreage. The method or methods of access shall be precisely specified in the text of the aquaculture license (lease) granted by the Selectboard.

7.5.1.1. Vehicle Access to Grants

Vehicle access will only be allowed when:

- a. Town roads and Town landings are used;
- b. The owners of private roads to be used have no objection;
- c. The specific route of entry from the roadway onto the beach and flats is approved and conditioned by the Conservation Commission.

7.5.1.2 Non-vehicular Access to Grants

Access by foot and/or boat shall be designated in the aquaculture lease, in all cases in which vehicle access is not possible or permitted.

7.6. Process for Approval of Aquaculture Licenses

The Selectboard shall accept and process applications for area licenses in accordance with [MGL Chapter 130: Section 57](#), and the application procedure of the Town.

7.6.1 Application Procedure

This procedure applies to new grant applications, applications for extensions to current grants and grant renewals and transfers. All potential new lease holders must meet the eligibility requirements in Section 7.8.1 [Eligibility Requirements](#). In addition, current lease holders applying to be added to another grant or applying for extensions must have complied with all Town of Wellfleet Shellfishing Policy and Regulations for at least three (3) years preceding the application for each grant license to which the applicant is named. These include but are not limited to: Section 7.3 [Annual License Fee](#), 7.12 [Evidence of Productivity: Use It or Lose It](#), 7.13 [Annual Report](#), 7.14 [Annual Inspection of Each Grant](#), 7.15.1 [Required State Seed-Propagation Permit](#) and 7.19 [Aquaculture Gear and Equipment](#). If applicant meets all criteria outlined above, then the following is required:

1. Fill out an aquaculture license application and get Shellfish Constable signature. Applications available at Shellfish Department offices.
2. Go over the Checklist for Aquaculture Lease Applicants with the Shellfish Constable, who shall provide any additional documentation required, such as a form for a Five-Year Business Plan and a template for a letter to the Selectboard.
3. For new grants and extensions:
 - a. Determine whether owner permission is needed, and if so, obtain written permission.
 - b. Schedule a site visit with Shellfish Constable to assess the area, ensure the shellfish growing area has an appropriate classification for aquaculture, review approximate coordinates for the new grant boundaries and discuss any potential conflicts. The applicant should include the proposed coordinates and map in the documentation provided to the Shellfish Constable for the Selectboard.
 - c. Have Harbormaster review proposal with regards to reasonable navigational and recreational interests in the areas concerned. (See 7.4 [Location of Areas Licensed for Aquaculture \(Grants\)](#).)
 - d. Set up a site visit with the Harbormaster and Shellfish Constable.
4. The Shellfish Constable shall request that the public hearing be placed on an upcoming Selectboard meeting agenda and contact the Principal Clerk for advertisement and posting.
5. The Shellfish Constable shall write a letter of recommendation or concern and shall provide all relevant grant application documents for the Selectboard hearing by the meeting packet deadline.
6. By or before the date of posting, the Shellfish Department shall make contact with and provide notification of the date of the hearing to the Harbormaster and to intertidal abutters who share boundaries with the proposed site, or who are otherwise adjacent or substantially affected by the change in area, as determined by the Shellfish Department.
7. A public hearing shall be held within 60 days of when the Shellfish Constable receives the complete written application with all required documents, and the Selectboard shall determine the outcome of the application.
8. Upon approval by the Selectboard and after the Massachusetts Division of Marine Fisheries biological survey, the applicant must simultaneously
 - a. have the new site professionally surveyed and supply the Shellfish Department with all boundary coordinates in decimal-degrees, and
 - b. start the state and federal permitting process, including, but not limited to, applications for MEPA (MA Environmental Policy Act) if area is a half acre or larger, Notice of Intent (Wetlands Protection Act filing), Chapter 91 authorization, eligibility under the Army Corps General Permit, etc. For more details, visit: <https://www.massaquaculturepermitting.org/>
9. Before the applicant can begin to use the site, they shall be required to clean up and remove all old and/or derelict aquaculture gear that may have accumulated on the site as per Section 7.19.4 [Removal of Damaged Gear or Equipment](#) and shall have a grant inspection by the Shellfish Department to confirm its readiness.

7.7. Moratorium on Aquaculture Licenses

The Selectboard may at a duly advertised public hearing declare a moratorium (a time-specific closure) on license approvals at any time this action is deemed appropriate and in the best interests of the fishery and the environment.

7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: Licenses shall only be issued to domiciled residents (See Sec. 1 Definitions) of the Town, 18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

7.8.2. Domicile Requirement and Exception

At such time as a licensee ceases to be a domiciled resident of the Town, that individual shall be removed from the license, except in the event of loss of housing for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section 2 of these Regulations, must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the license holder's removal to another town, or the licensee will be removed from the license.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the lease holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the lease holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

No aquaculture license or commercial permit from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term. A licensee making use of an exemption shall not be eligible to be granted a new license or an extension of a currently licensed area for the duration of the allowed term but may be granted a renewal of their existing license, as per Section 7.8.2.

The status of all other licensees named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole licensee, then the license shall be revoked.

7.8.3. Renewal of Aquaculture Licenses

The initial term for a new license shall be two (2) years. Provided appropriate effort has been demonstrated, as required in Section 7.12, the first renewal of a license may be for five (5) years, unless the licensee agrees to a shorter term. Subsequent renewals may be for ten (10) years, unless the licensee agrees to a shorter term. Renewals may be requested and acted upon only during the twenty four (24) months immediately prior to the expiration date of the current license. The renewal period shall begin on the expiration date of the existing license.

7.8.4. Limit on Individuals Licensed to Use a Grant

Licenses issued under MGL Chapter 130: Section 57 by the Selectboard of the Town of Wellfleet may be issued to up to four (4) individuals, 18 years of age or older, meeting the requirements set forth Section 7. The Selectboard will not recognize more than four (4) individuals as licensees on any one license. Each individual who is licensed to use an area for aquaculture must acknowledge and approve the addition of any person who subsequently applies to be included on that license.

7.8.5. Working of Grants by Non-Licensees

All individuals authorized by a licensed grant holder to work the grant in the absence of a licensed grant holder must be registered with the Shellfish Department. Licensees are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their registration. When more than one licensee has been granted a license for the same acreage, each licensee is responsible only for the actions of the employees or otherwise affiliated persons who are under their separate management.

7.8.6. Limit on Size of Grant

No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each person named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individuals holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage.

7.8.7. Grants Established Before August 1, 1993

Any license/s issued prior to August 1, 1993, the date on which the Selectboard established the maximum size of seven (7) acres for an aquaculture holding, will remain valid, and will be allowed to continue according to the existing terms and conditions of said license.

7.8.8. Aquaculture Research and Development Projects

7.8.8.1. License for Aquaculture Research and Development

The Selectboard may issue a license to an individual or an institution (including a corporation) which proposes to conduct aquaculture research and development projects if environmentally appropriate, in the best interests of the town, and beneficial to the aquaculture industry.

7.8.8.2. Initial Term of License

The initial term of a research and/or development license shall not exceed two (2) years. The license may then be renewed for a period of up to eight (8) years, for a total maximum of ten (10) years.

7.8.8.3. Plan of Project

The applicants shall provide a plan of the project including all aspects of the management and operations of the project to the Selectboard, the Shellfish Constable and the Division of Marine Fisheries.

7.8.8.4. Dissemination of Data and Results

All data and subsequent results and analyses of the project shall be made available to the Selectboard, the Shellfish Constable, and the Division of Marine Fisheries at predetermined times to be established in the license.

7.8.8.5. Excess Product Returns to Town

Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development specified in Section

7.8.8.6. License for Aquaculture Research and Development shall be turned over to the Town of Wellfleet annually, for appropriate use by the Shellfish Department.

7.9. Rights of Use and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter 130; [Section 57](#), [Section 63](#) and [Section 67](#).)

Licensees may transfer the rights or responsibilities assigned to their license to any other individuals, companies or corporations by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area. (See MGL Chapter 130; [Section 58](#) and Section 7.8.3 Limit on Individuals Licensed to Use a Grant.)

7.10. Inheritance of Rights to Use an Aquaculture License

Any license issued under the provisions of MGL Chapter 130, Section 57 shall, upon the death of the sole licensee, continue in full force and effect, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. This is for the use and benefit of the immediate family of the deceased licensee. For purposes of this section the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of said deceased licensee.

7.11. Liability of the Town

The Town will not be held liable for any damage to a licensed area, or gear, or stock thereon, by reason of any dredging or other harbor improvements undertaken by the Town.

7.12. Evidence of Productivity: Use It or Lose It

7.12.1. Minimum Levels of Investment and Production

There shall be minimum levels of investment and production required in order to retain an area license. These shall be:

- a. During the first, second, and third year after the date of issuance of the license a minimum of \$1000 per acre shall be spent on seed and gear for the area and it shall be evident that this effort of improvement has taken place. Any licensed area that is less than one acre shall be prorated.
- b. During the fourth year and every year thereafter there shall be a minimum production of an average of \$1000 worth of product per year per acre, or prorated for a portion thereof, from the practice of aquaculture on the licensed area. This shall be demonstrated by the annual grant report, and, if so requested by the Shellfish Constable, copies of transaction receipts or other acceptable documentation. (See MGL Chapter 130, [Section 64 Annual fees for license](#).)

7.12.2. Failure to Meet Production Levels

Failure of the licensee/s to meet the specified production level for any three (3) consecutive years may result in the forfeit of the aquaculture license and licensed area, as stated in [MGL Chapter 130: Section 65](#).

7.12.3. Waiver of Production Requirements

The Constable shall have the right to waive the minimum production requirements when there is evidence that the failure to meet the minimum standard is due to events beyond the control of the license holder.

7.12.4. Extension of Licensed Area (Grant): Investment and Production

In the event of an extension being granted to a presently licensed area, the same level of effort per acre for the newly licensed, abutting section is required as described above in Sections 7.12.1 Minimum Levels of Investment and Production and 7.12.2 Failure to Meet Production Levels.

7.13. Annual Report

7.13.1. Due Date

Licensees shall file annual reports under oath, on their activities in accordance with [MGL Chapter 130: Section 65](#) on or before February 28th of the following year. The report must include any changes or deviation from the original plan filed with the original application or any subsequent application.

7.13.2. Penalization for False Report

Any licensee who submits a false licensed area report in violation of [MGL Chapter 130: Section 65](#) shall be penalized by the revocation of his or her license.

7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. The license holder(s) may appeal the Constable's decision to the Selectboard within 30 days after notification. The Selectboard shall hold a public hearing within 30 calendar days of receipt of said appeal. If no appeal is filed on a timely basis, the license will be forfeited.

7.14. Annual Inspection of Each Grant

The Shellfish Department shall make no less than one visit per year to the site of each licensed area in the company of the license holder.

7.15. Shellfish Seed

7.15.1. Required State Seed Permit

No person shall harvest, plant, transplant, transport, sell or otherwise have in their possession seed shellfish, without first obtaining a state seed permit from the Massachusetts DMF, as required by [MGL Chapter 130, Section 80](#) and [CMR 322, Section 15.04\(b\) 1](#)

7.15.2. Special Circumstances for Taking of Seed

From time to time, with the approval of the DMF and the Selectboard, the Shellfish Department may open up an area for the taking of oyster seed only by aquaculture licensees who hold a seed permit.

7.15.3. Use of Spat Collecting Devices

The use of spat collecting devices such as Chinese hats to catch oyster larvae in areas not licensed for aquaculture, may only be done by commercial permit holders who also hold a seed permit (Section 1, Definitions). During this period, catching oyster larva with such devices is legally considered to be fishing, not farming and the devices are classified as fishing equipment, not growing devices. All devices used in the collection of spat must be tagged with the name of the grant holder and phone number. From time to time, upon receiving a recommendation from the Constable, the Selectboard may vote to limit the areas in which such fishing is allowed or the numbers of Chinese hats or such other devices that may be set out by individuals in these same areas.

7.15.4. Catch Limit for Seed Specified on Permit

No license holder in any one calendar year may take, or cause to be taken, more than twenty-five (25) bushels of seed oysters per acre of licensed area or fraction thereof, pro rated at that rate.

7.15.4. No Seed Harvested by Dragging

No person shall harvest shellfish seed by dragging, except by the licensee within the boundaries of his or her licensed area.

7.16. Undersized Oysters, Quahogs and Surf Clams

7.16.1 Containers Holding Undersized Shellfish Must Be Tagged

All containers that hold market-bound, aquaculture-raised shellfish whose size is less than that allowed by the State when that species is harvested from the wild (petite oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8" and 1", or surf clams whose shell diameter is between 1 1/2" and 5") must be tagged with the words "AQUACULTURE-RAISED" or "FARM RAISED".

7.16.2 Sale Only from Grower to Primary Buyer

The primary sale of undersized, aquaculture-raised (oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8 and 1", and surf clams whose shell diameter is between 1 1/2 and 5") must only be between the aquaculturists or their licensed employee, and a licensed wholesale dealer that is also a "primary buyer of shellfish". If the aquaculturist is also licensed as a primary buyer, they may be considered as the primary buyer of their own product.

7.16.3 Petite Oysters

An aquaculture license holder may harvest and sell farm-raised petite oysters whose greatest length is between 2.5 and 3 inches both in and out of State.

7.16.4 Undersized Quahogs aka "Gems" or "Vongeles"

An aquaculture license holder may harvest and sell farm-raised quahogs whose hinge width is between 7/8" and 1" if:

- a. they are sold only to primary buyers on the inter-state shippers list that distribute them out-of-state. The in-state distribution of aquaculture farm raised quahogs whose hinge width is under 1" is prohibited;
- b. they have documented proof of purchase of seed;

7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams

An aquaculture license holder may harvest and sell farm-raised surf clams whose shell diameter is between 1 1/2 and 5" both in and out of state if:

- a. They have documented proof of purchase of seed.

7.17. Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season:

All such transfers shall be done according to [CMR 500.021](#) and the variance granted to the Town by MDPH/BEH for the years 2018-2020, as authorized on May 1, 2018. A copy of this variance is available to the public on the Town's Shellfish Department [website](#).

7.18. Predator Control

7.18.1. No Lethal Predator Control Measures

Unless specifically authorized by the Director, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, it shall be unlawful to use lethal means to control or exclude predators or other organisms from any area used for aquaculture. Non-lethal enclosures, including, but not limited to, nets, fences, bubble curtains and noise may be used, if approved for a specific site and purpose. Invertebrate predators, pests and fouling organisms may be removed manually from an aquaculture site and disposed of in a lawful manner ([CMR 322, Section 13.7.2](#)).

7.18.2. No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit

Being in possession of horseshoe crabs and whelks (conchs) for any reason requires a State permit. In this regulation, whelk/conch refers to either knobbed whelk (*Busycon carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See [CMR 322 6.34: Horseshoe Crab Management](#) and [322 CMR Section 6.21: Minimum Size for Conch](#).) As stated in 7.17.1, neither species shall be intentionally killed while practicing predator control.

7.18.3. No Harm to Endangered Species

No person shall maintain a predator control method that will intentionally threaten any endangered species.

7.19. Aquaculture Gear and Equipment

7.19.1. Grants Shall Be Marked

Every licensee shall mark the corners of the area licensed under their license with buoys marked with the license number. From April 1st to November 1st, the corners shall be marked with fluorescent yellow balls, at least twenty (20) inches in circumference. Buoys shall be attached to their anchor by cables, chains or non-floating lines. Numbers shall be marked on said buoys, and shall be at least two (2) inches high and shall be black in color. Temporary buoys shall be required from November 1 through April 1.

7.19.2. Height and Arrangement of Equipment

With the exception of spat collection devices there shall be no equipment or gear made of metal that rises more than eighteen (18") inches above the grade, and equipment or gear made of plastic (or another equally flexible material) higher than twenty-four (24") inches above the grade, within the boundaries of a licensed area.

7.19.3. Marking of Gear

Every licensee shall clearly and permanently mark any and all trays, boxes, holding cars and all other aquaculture gear with the license number of the license area in a manner that is clearly visible.

7.19.4. Removal of Damaged Gear or Equipment

All equipment or gear which is either damaged, or can no longer be used as it was originally designed or intended to be used in the opinion of the Constable, must be removed from a licensed area and either disposed of properly or moved to an appropriate site not located within a protected resource area. This includes, but is not limited to, loose nets, twisted and damaged racks, loose envelopes, grow-out bags and fastening devices.

7.19.5. Overwintering of Equipment on Grants

Racks, rebar or u hooks used to secure nets on a licensed area must either be securely fastened to within two inches (2-4") of the bottom or removed by January 15, or before ice prevents removal, whichever comes first, as specified in overwintering agreement. Any licensee who wishes to overwinter racks on their grant must obtain and sign an agreement form available from the Shellfish Department. All gear left on any grant must be tagged as per Section 7.19.3. In parts of the harbor where there may be a risk of silt covering overwintered racks on a licensed area, the Constable may waive the height requirement in 7.19.5 after a visit to the specific site and documenting the adjustment on the Agreement Form.

7.19.6. Fines for Gear Violations.

Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a fifty-dollar ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

7.20. Buffer Zones

There shall be a buffer zone contiguous with the perimeter of any licensed area that is either twenty-five (25) feet wide, or one half the distance to the adjacent licensed area if less than fifty (50) feet, except where two (2) licensed areas abut. It is the responsibility of the license holder/s to keep this area clear of any equipment or gear owned by the licensee/s.

7.21. Exception to Hours of Operation

As required in Section 4.7, no license holder shall harvest, dig, pile, take or carry away any shellfish or shell during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise by any method whatsoever. In the event of impending natural emergencies due to storms, ice or the like, and only after notifying the Shellfish Constable, a licensee may engage in securing stock and gear during this time period.

Licenses must notify the Shellfish Constable in advance of their intention to empty seed trays and plant out seed at such times when the extreme tides needed to conduct such activities occur during this time period.

7.22. Hydraulic Harvesting of Shellfish from Grant Areas is Prohibited

The use of hydraulic harvesting gear for the purpose of harvesting shellfish from within the boundaries of a licensed area is ~~prohibited, permitted under the following conditions and with the following restrictions:~~

- ~~a) Devices used shall be for the hosed ejection of water under pressure into a shellfish bed;~~
- ~~b) Pressure pumps shall not exceed five (5) horsepower as rated by the manufacturer;~~
- ~~c) Noise control devices (i.e. mufflers) shall be in place and in good repair at all times;~~
- ~~d) Not more than one device may be used on any grant at any time;~~
- ~~e) Hours of operation shall be between 7:00 a.m. and ½ hour before sunset;~~
- ~~f) The Shellfish Constable shall have the authority to direct an individual involved in the use of such equipment to cease and desist if the Constable feels that there is a problem that necessitates such action. Any individual so ordered shall have the right to appeal the Constable's decision to the Selectboard, at their first scheduled meeting after the service of such order.~~

7.23. Extension of Acreage Without Permission and Resolution of Boundary Disputes

Boundary points will be provided by the Town of Wellfleet to all license holders in their license documents, and the Town's boundary points will be considered the only valid points to be used to define each grant's boundaries. No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. In the event that the assigned boundaries of an aquaculture license are called into question, the holders of the grants in dispute may work with the Shellfish Constable to try and resolve the dispute using the town's boundary points and technology, and surveys of shellfish grants on file with the Town. If the parties are unable to resolve the boundary dispute with the Shellfish Constable, the complainant grant holder and/or the Shellfish Constable shall cause the licensed area(s) to be re-surveyed by a registered civil engineer at the complainant grant holder's(s') expense. The professional land survey(s) shall be submitted to the Selectboard, who shall issue a determination on the boundary dispute and, if necessary, adjust the aquaculture license(s) affected thereby accordingly. If a willful violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked by the Selectboard, following a public hearing.

Section 8 Commercial Shellfishing: Dragging and Dredging

8.1. Areas Closed to Dragging/Dredging

No vessel shall operate a drag or dredge north of a line (commonly known as the "no drag line") extending from the seaward end of the Indian Neck Breakwater (see Appendix for coordinates to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Waters.

No vessel shall operate a drag or dredge east of a line extending from the candy pole on Field Point to the boat house on Lieutenant Island (Blackfish Creek No-drag Line), or within one hundred (100) feet of properly marked grants in that area, with the exception that a license holder may drag over his own grant. (See Appendices for maps and coordinates.)

8.2. One Drag/Dredge at a Time

No vessel which operates a drag or dredge shall have more than one drag or dredge in the water in use, at any time.

8.3. Size of Drag or Dredge

No drag or dredge with or without teeth having a width greater than fifty (50) inches shall be used in Wellfleet Harbor. Any drag or dredge used for the purpose of taking oysters, shall have exposed teeth at least one and one half inches in length (1 ½") as measured from the bottom of the bar, and separated by no more than four (4") inches along the entire exposed portion of the bar which must be in contact with the bottom.

8.4. By-catch Limited to 20%

No vessel shall land more than twenty per cent (20%) of the permitted daily catch of any species of shellfish, as by-

catch, other than such species which the gear used is designed to harvest.

8.5. No Hydraulic Harvesting

Hydraulic harvesting of shellfish from vessels is not allowed.

8.6. Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

8.7. Vessels Must be Registered/Documented

Any vessel used for commercial shellfishing in the waters of the Town employing (over the side) a drag, dredge or other gear designed for the taking of shellfish must be registered and/or documented as having Wellfleet as port of origin. The owner of said vessel found in violation of this regulation shall be fined for each violation.

8.8. Landing of Catch

All draggers engaged in shellfishing must land all catch at the Town Pier.

8.9. No Dragging/Dredging Near Licensed Areas

Dragging or dredging within 25 feet of a licensed area is prohibited, except as otherwise noted. (See Section 8.1. Areas Closed to Dragging and Dredging.)

Section 9 Commercial Shellfishing: Diving for Shellfish

9.1. Areas where Diving is Allowed

9.1.1. South of the No-drag Line

A commercial permit holder may harvest shellfish by diving from April 1st to October 1st, in the area south of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Water, south to Eastham/Wellfleet town line.

9.1.2. North of the No-drag Line

When recommended by the Shellfish Department and approved by the Selectboard, divers may harvest shellfish from the waters north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at mean high water, excluding the Herring River. (Area CCB 12).

9.2. No Diving Near Licensed Areas

No person may dive within one hundred (100) feet of any properly marked licensed shellfish area except for license holders diving on their own licensed areas.

9.3. Flag Requirements

All divers and snorkelers shall display a "diver down" flag or other flag when in the water, and must stay within one hundred (100) feet of said flag.

9.4. Daily Diving Limits

Divers with commercial permits are subject to the same daily permit limits as handpickers with commercial permits. Divers with noncommercial permits are subject to the same daily permit limits as handpickers with noncommercial permits.

9.5. No Diving in Channel

No commercial permit holder shall harvest shellfish by diving within the buoyed channel.

Section 10 Eeling

10.1. Eeling Permit Required

No person shall harvest, remove, or catch eels from the waters of the Town without having first obtained an eeling permit from the Town.

10.2. Fykes Not Allowed

No eels shall be taken within the Town by the use of a fyke,

10.3. No Taking of Glass Eels

Taking of glass eels is prohibited.

10.4. Examination of Catch

On the demand of the Shellfish Constables, Police Department or other agent duly authorized by the Selectboard, every permittee shall display in full view his entire catch of eels for examination.

10.5. Catch Limits

Permits for the catching or taking of eels from the waters of the Town shall be issued to domiciled residents for the taking of not more than twenty (20) pounds of eels in any one (1) day.

Section 11 Enforcement

Enforcement protocols and penalties for specific infractions may be found in other sections of these regulations, including:

5.3.1 Required Icing and Shading of Harvest in Warmer Weather

6.2.1 Required Icing of Product

6.2.3. Commercial Catch Limits

7.7.13.2. Penalization for False Report

7.12.2. Failure to Meet Production Levels

7.13.3. Notification of Failure to Meet Minimal Requirements

7.18.6. Fines for Gear Violation

7.21. Hydraulic Harvesting of Shellfish from Grant Areas

7.22. Extension of Acreage Without Permission

8.7. Vessels Must Be Registered/Documented

11.1. Enforcement Personnel

These regulations shall be enforced by the Wellfleet Shellfish Constable, Deputy Shellfish Constable, The Wellfleet Police Department (including Special Police Officers) or any duly authorized agent of the Selectboard. Failure to adhere to these regulations can result in fine, suspension or loss of permit, or suspension or loss of license, or all three.

11.2. Penalties for Poaching or Theft

A licensee may in tort recover treble damages of any individual who, without his or her consent, unless otherwise authorized by law or lawful regulation to do so, takes shellfish or equipment from the licensed area during his or her term of use.

(See Sections 4.9 Poaching or Disturbance of Grant and MGL Chapter 130; [Section 63](#) and [Section 67](#) .)

11.3. Authority to Revoke Aquaculture License

The Selectboard or the Director of the Division of Marine Fisheries may revoke an area license in accordance with the provisions set forth in MGL Chapter 130, Sections [57](#) & [65](#). In the event that a license is revoked, that individual may not possess seed nor harvest shellfish from any licenses area in the Town.

11.4. Non Criminal Disposition

Enforcement shall include without limitation the noncriminal disposition procedure provided in [MGL Chapter 40: Section 21D](#)

11.5. Penalty Fees

The penalties for violation of any of these regulations shall be assigned by the Shellfish Department and shall consist of a fine of \$50 for the first offense, a fine of \$150 for the second offense, and a fine of \$300 for the third offense. In the event of a fourth offense within a period of 5 years, there will be an automatic permit suspension.

11.6. Duration of Shellfishing Permit Suspensions

Holders of Wellfleet shellfish permits shall have their permit suspended by the Selectboard for a period of not less than three (3) days nor more than fourteen (14) days for the first offense, suspended for not less than thirty (30) days nor more than sixty (60) days for the second offense, and suspended not less than ninety (90) days for the third offense. In any instance where the permit was due to expire during the proposed suspension period, the suspension may be invoked during the next calendar year. Additionally, the beginning date of the suspension shall be determined by the Selectboard.

11.7. Revocation of Shellfishing Permits

The Selectboard reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

11.8. Acceptance of Suspension Without Request for Appeal

The enforcing officer may offer the offender of any of these regulations the opportunity to immediately accept the suspension of his or her permit for the minimum specified time to begin the following calendar day. In this case, the offender must surrender his or her permit and agree in writing to the suspension. Acceptance or rejection of this offer will in no way affect the disposition of the fine.

11.9. Disposition of Unlawful Catch

The enforcing officer may, at his/her discretion, seize and dispose of any unlawful catch as per [MGL Chapter 130: Section 12](#).

11.10. Prior Terms Revoked

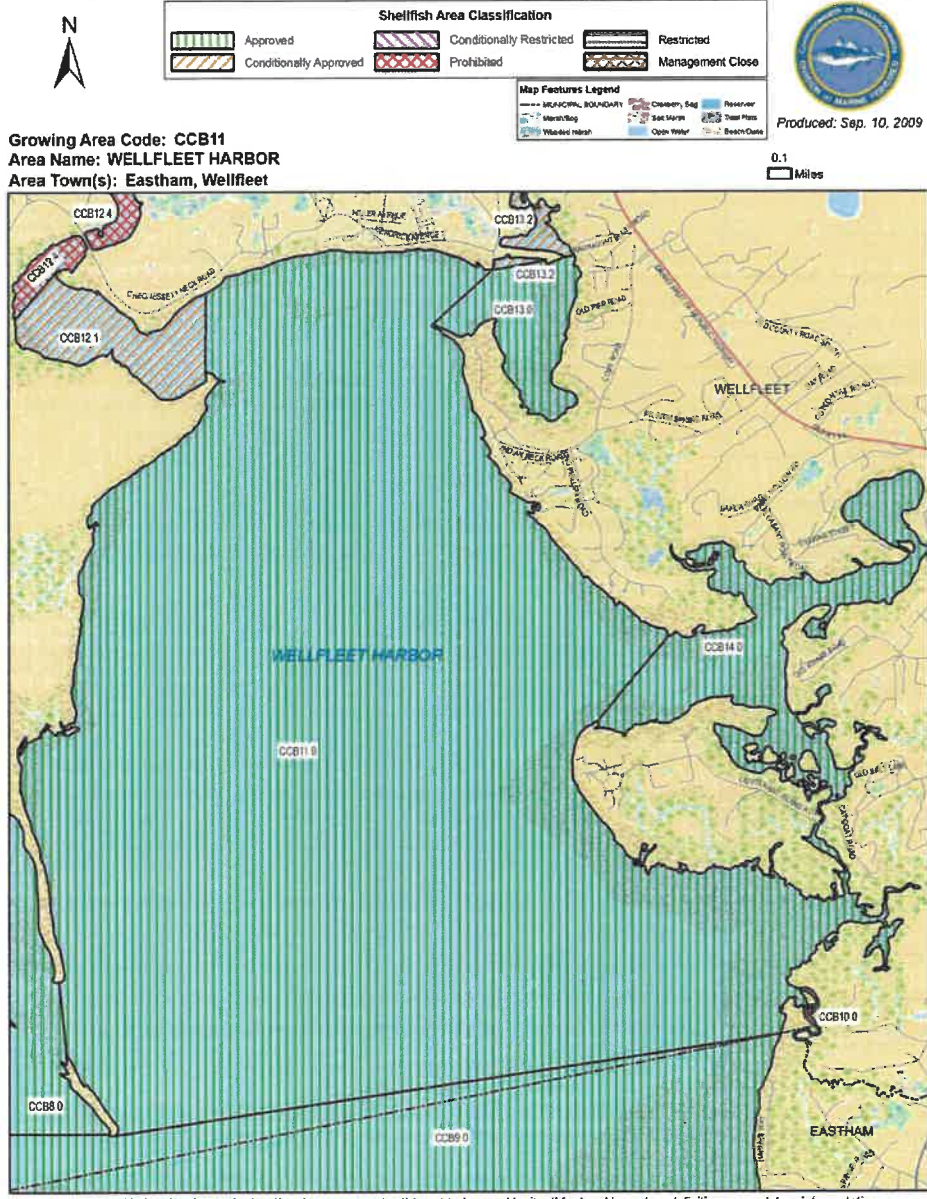
All regulations and specifications made prior to the date of acceptance of these regulations are hereby revoked; with the exception that nothing in these regulations shall be deemed to affect the validity, conditions, or terms of any license granted under the corresponding previous regulations of the Town until the expiration of such license.

11.11. Severability Clause

If any provision of these regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these regulations shall continue in force and effect.

APPENDIX A:
 DMF - Designated Shellfish Growing Areas / Wellfleet

Massachusetts Division of Marine Fisheries - Designated Shellfish Growing Area

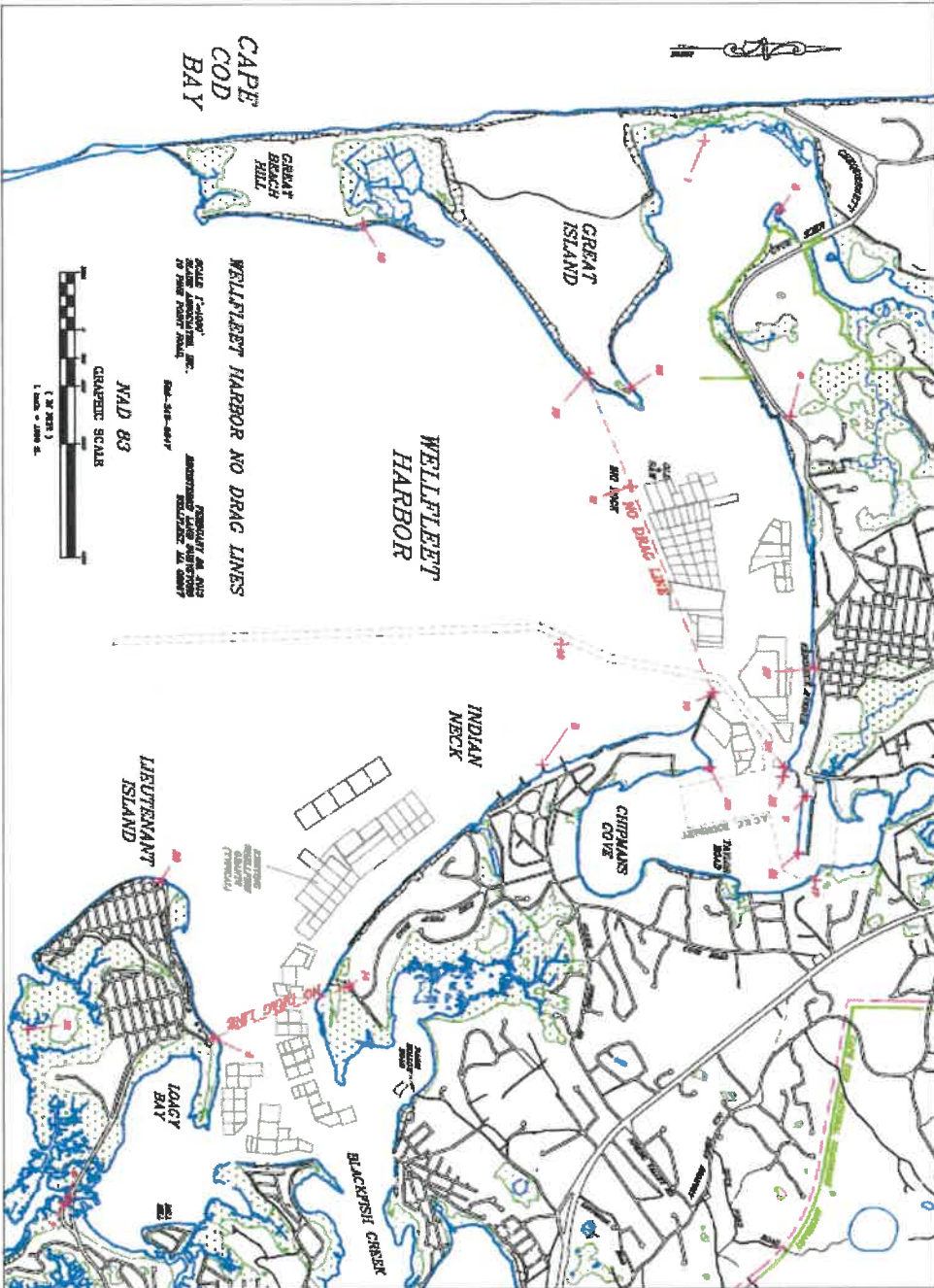


This product is for planning and educational purposes only. It is not to be used by itself for legal boundary definition or regulatory interpretation.

APPENDIX B Latitude and Longitude Coordinates

#	Point description	Latitude (N)	Longitude (W)
1	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92553333	-70.07081667
2	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92911667	-70.06623333
3	Eastern high point of the Town Boat Ramp	41.92993333	-70.02850000
4	Eastham/Wellfleet boundary marker on Billingsgate Island	41.87195000	-70.06666667
5	End of the first groin south of the Burton Baker Landing	41.91717000	-70.03151667
6	Lieutenant's Island Bridge	41.89378333	-70.03091400
7	Lieutenant's Island Bridge	41.89361667	-70.00333333
8	Lieutenant's Island Boathouse	41.90090000	-70.01371667
9	Main flagpole at the Chequessett Neck Country Club	41.92943333	-70.05291667
10	Navigational beacon (#14) at the seaward end of Indian Neck Breakwater	41.92546667	-70.03528333
11	Near the rocks known as Old Saw	41.92168333	-70.04865000
12	Official boundary marker in Hatches Creek	41.88111667	-70.00445000
13	Osprey nest pole on the southern end of Lieutenant's Island	41.89198333	-70.01451667
14	Parking lot at Fox Island, marked with a striped pole	41.90753333	-70.01686667
15	Point in Middle Meadow, marked with a striped pole	41.90891667	-70.06583333
16	Point near the #12 channel marker	41.91818333	-70.03861667
17	Point on the shore on the other side of the channel (across from Shirttail Point), marked with a striped pole	41.93028333	-70.02303333
18	Point on the tip of Great Island, marked with a striped pole (for Herring River)	41.92168333	-70.05495000
19	Point on the tip of Great Island, marked with a striped pole (for No Drag Line)	41.91971667	-70.05596667
20	Point on the tip of Indian Neck, marked with a striped pole	41.92518333	-70.03053333
21	Southeastern tip of Shirttail Point	41.92946667	-70.02488333
22	Southeastern tip of the L pier	41.92878333	-70.02976667
23	Southern tip of Jeremy Point	41.87485000	-70.06363333
24	Southwestern tip of the L Pier	41.92881667	-70.03038333
25	Uncle Tim's Bridge	41.93751667	-70.02835000
26	Uncle Tim's Bridge	41.93693333	-70.02793333
27	US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach	41.93045000	-70.03671667
28	Western edge of the house at the western tip of Lieutenant's Island	41.89838333	-70.02375000

APPENDIX C: Wellfleet Harbor/No Drag Lines



APPENDIX D:

OVERWINTERING AGREEMENT

I, _____

agree to remove all metal racks, rebar or u hooks used to secure nets, or anything constructed of metal that is not securely fastened to within 2-4” to the bottom by January 15th, or before ice prevents removal, whichever ... comes first.

If I decide to store racks on my grant(s) over the winter, I agree to the following conditions:

1. All racks shall be tagged with the owner's name and grant number.
2. An accurate number of racks being left on the grant will be provided on this agreement form:
 - All racks with oysters on them are pumped down to within 2-4” of the bottom.
 - All racks without oysters on them are pumped down to be flush with the bottom.
 - I attest that before the threat of ice, I will be able to remove in _____, [e.g. two tides, two days], no matter what the tide height, all racks that will NOT be overwintered but are remaining in use on grant after January 15. These racks are not pushed down. I understand that it is up to Constable’s discretion to allow this, and I will work with Shellfish Department to demonstrate my ability to meet this deadline.
3. Any racks that are damaged during the winter must be cleaned up by March 1st or when the departure of ice allows, whichever comes first. This is also addressed in Section 7.19.4.
4. I understand that I am solely liable for any damage my equipment may cause to other aquaculturists or the public.
5. In case of emergency, contact _____ at _____.
6. Failure to adhere to these conditions can result in suspension or revocation of my grant license, in accordance with Section 7.19.6. and Section 11 of the Wellfleet Shellfishing Policy and Regulations.

Grant license(s) #: _____

Number of racks to be overwintered with product (2-4” off bottom):

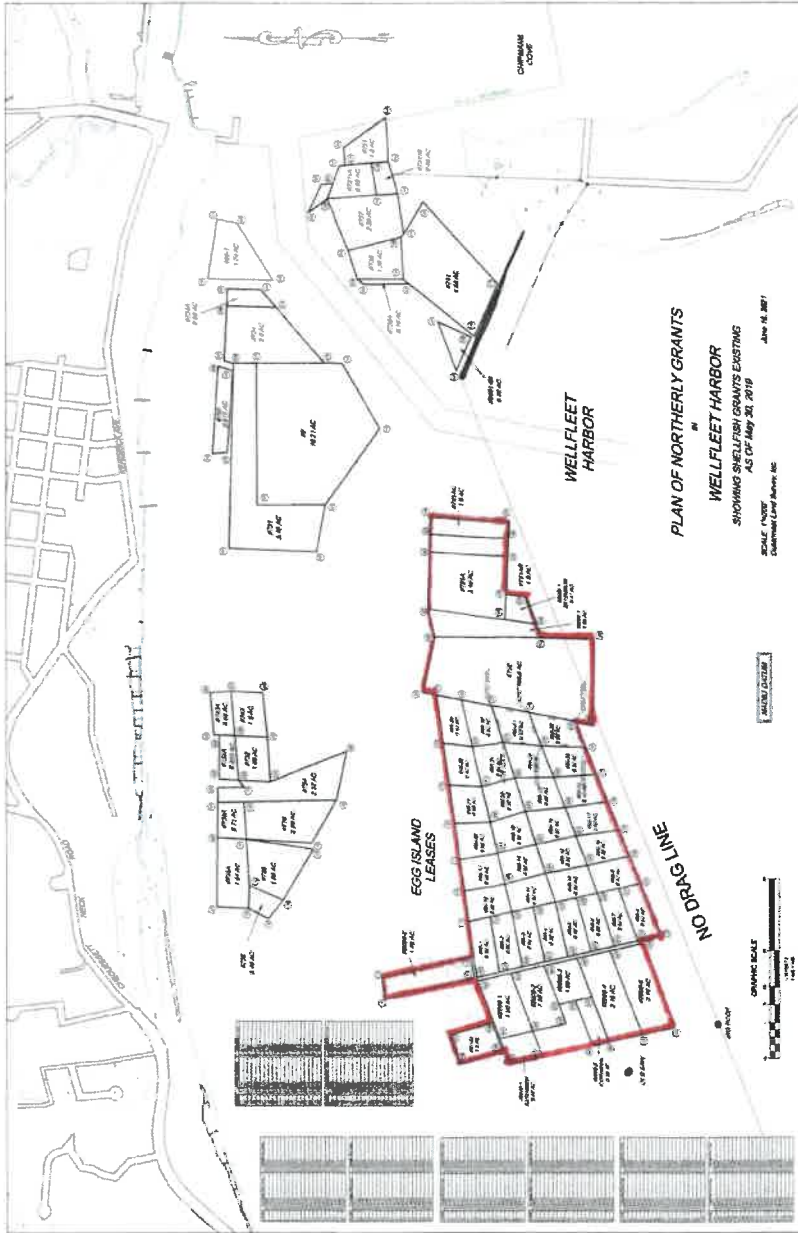
Number of racks to be overwintered without product (flush with bottom):

Number of racks currently on grant, not pushed down, but that will be removed before ice:

Signature _____

Date: _____

APPENDIX E: Map of Egg Island. 7.4. Location of Areas Licensed for Aquaculture (Grants), Area 5



Town of Wellfleet
Shellfishing Policy and Regulations

Last Amended 04/09/13, 06/04/13, 7/16/13, and 01/28/14, 06/10/14, 8/05/14, 09/16/14, 03/24/15,
05/12/15, 08/11/15, 09/08/15, 12/08/15, 01/26/16, 4/12/16, 9/13/16, 12/6/16, 3/15/17, 8/22/17, 5/22/18,
1/15/19, 05/28/19, 07/23/19, 09/24/19, 01/14/2020, 07/28/2020, 09/08/2020, 04/27/2021, 06/22/2021,
09/14/2021, 03/08/2022, 06/28/2022, 12/20/2022 (changes are highlighted)

All References to Massachusetts General Law (MGL) and the Code of Massachusetts Regulations
(CMR) are valid as of 2014

K.P. Law
edits
- Gregg
Corbo

TABLE OF CONTENTS

Section 1 Definitions

Section 2 Shellfishing Policy for the Town of Wellfleet / Purpose of Regulations

Section 3 Informing the Public of Information and Meetings Concerning the Fishery

- 3.1 Posting Policy and Regulations
- 3.2 Posting of Hearings on Shellfish Matters Held by the Selectboard
- 3.3 Open Meeting Law

Section 4 General Regulations (Applying to Noncommercial, Commercial and Aquaculture)

- 4.1 Areas Where Commercial and Noncommercial Shellfishing May Take Place
- 4.2 Boundary and Area Locations
- 4.3 Landing of Shellfish
 - 4.3.1 Landing of Shellfish
- 4.4 Daily Limit
- 4.5 No Landings in Excess of Daily Limit
- 4.6 Landing Shellfish Before Shucking
- 4.7 Daily Time Limits
- 4.8 No Shellfishing Below 28 Degrees Fahrenheit
- 4.9 Poaching
- 4.10 Disturbance of Grant by Other Than Licensee
- 4.11 License and/or Permit Required
- 4.12 Inspection on Demand
- 4.13 Display of Permit/License
- 4.14 Possession of Seed Restricted
- 4.15 Methods of Harvest
- 4.16 Detrimental Practices of Harvesting Prohibited
- 4.17 Handpicking or Scratching-Only Areas
- 4.18 Transplanting
 - 4.18.1 Outside Wellfleet Waters
 - 4.18.2 Into Wellfleet Waters
 - 4.18.3 Harvesting Seed from Wild Generally Not Allowed
- 4.19 Areas Restricted to Use by Permit Class
- 4.20 Annual Opening and Closing of Scallop Season
- 4.21 Motorized Vehicles on Beaches

Section 5 Noncommercial Shellfishing

- 5.1 Seasonal Restrictions: Open and Closed Areas
- 5.2 Permits:
 - 5.2.1 Eligibility for Noncommercial Permits

5.2.2 Noncommercial Permit Fee Schedule

5.3 Noncommercial Shellfishing Regulations:

- 5.3.1 Required Icing and Shading of Harvest in Warmer Weather
- 5.3.2 Cannot Harvest for Commerce
- 5.3.3 Noncommercial Catch Limits

Section 6 Commercial Shellfishing

6.1 Commercial Permits

- 6.1.1 Eligibility for Commercial Permits
- 6.1.2 Domicile Requirement and Exception
- 6.1.3 Commercial Permit Requirements
- 6.1.4 Commercial Permit Fee Schedule

6.1.5 Hardship Exemption

6.2 Commercial Shellfish Regulations

- 6.2.1 Required Icing of Product
- 6.2.2 Harvest Must Be Tagged
- 6.2.3 Minors Under fourteen (14) Without Permit
- 6.2.4 Commercial Catch Limits
 - 6.2.4.1 Bay Scallops
 - 6.2.4.2 Mussels
 - 6.2.4.3 Oysters
 - 6.2.4.4 Quahogs
 - 6.2.4.5 Razor Clams
 - 6.2.4.6 Sea Worms
 - 6.2.4.7 Soft Shell Clams
 - 6.2.4.8 Blood Ark Clam or Ponderous Ark Clam

6.3 Daily Area Catch Limits

6.4 Seasonal and Other Restrictions: Open and Closed Areas

- 6.4.1 Chipman's Cove
- 6.4.2 Duck Creek
- 6.4.3 Herring River
- 6.4.4 West Side
- 6.4.5 Egg Island
- 6.4.6 Blackfish Creek

6.5 Use of Motorized Vehicles for Shellfishing

- 6.5.1 Motorized Vehicles on Beaches
- 6.5.2 Terms and Conditions for Use of Motorized Vehicles
- 6.5.3 Speed Limit on Beaches and Intertidal Areas
- 6.5.4 Allowed Line of Access for Vehicles

Section 7 Shellfish Aquaculture

7.1 Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Subdivided by the Town

7.2 Previous Established Grants That Become Available

7.3 License Fee

7.4 Location of Areas Licensed for Aquaculture (Grants)

7.5 Conditions for Use of Area Licensed for Aquaculture

- 7.5.1 Access to Areas Licensed for Aquaculture is Required
 - 7.5.1.1 Vehicle Access to Grants
 - 7.5.1.2 Non-vehicular Access to Grants

7.6 Process for Approval of Aquaculture Licenses

7.6.1 Application Procedure

7.7 Moratorium on Aquaculture Licenses

7.8 Issuance of Licenses for Aquaculture

7.8.1 Eligibility Requirements

- 7.8.2 Domicile Requirement and Exception
- 7.8.3 Renewal of Aquaculture Licenses
- 7.8.4 Limit on Individuals Licensed to Use a Grant
- 7.8.5 Working of Grants by Non-Licensees
- 7.8.6 Limit on Size of Grant
- 7.8.7 Grants Established Before Aug 1, 1993
- 7.8.8 Aquaculture Research and Development Projects
 - 7.8.8.1 License for Aquaculture Research and Development
 - 7.8.8.2 Initial Terms of License
 - 7.8.8.3 Plan of Project
 - 7.8.8.4 Dissemination of Data and Results
 - 7.8.8.5 Excess Product Returns to Town
- 7.9 Rights of Use and Transfer
- 7.10 Inheritance of Rights to Use an Aquaculture License (Grant)
- 7.11 Liability of the Town
- 7.12 Evidence of Productivity: Use it or Lose It
 - 7.12.1 Minimum Levels of Investment and Production
 - 7.12.2 Failure to Meet Production Levels
 - 7.12.3 Waiver of Production Requirements
 - 7.12.4 Extension of Licensed Area (Grant): Investment and Production
- 7.13 Annual Report
 - 7.13.1 Due Date
 - 7.13.2 Penalization for False Report
 - 7.13.3 Notification of Failure to Meet Minimum Requirement
- 7.14 Annual Inspection of Each Grant
- 7.15 Shellfish Seed
 - 7.15.1 Required State Seed Permit
 - 7.15.2 Special Circumstances for Taking of Seed
 - 7.15.3 Use of Spat Collecting Devices
 - 7.15.4 Catch Limit for Seed Specified of Permit
 - 7.15.5 No Seed Harvested by Dragging
- 7.16. Undersized Oysters, Quahogs and Surf Clams
 - 7.16. 1 Containers Holding Undersized Shellfish Must Be Tagged
 - 7.16.2 Sale Only from Grower to Primary Buyer
 - 7.16.3 Petite Oysters
 - 7.16.4 Undersized Quahogs aka "Gems "or "Vongeles"
 - 7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams
- 7.17 Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season
- 7.18 Predator Control
 - 7.18.1 No Lethal Predator Control Measures
 - 7.18.2 No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit
 - 7.18.3 No Harm to Endangered Species
- 7.19 Aquaculture Gear and Equipment
 - 7.19.1 Grants Shall Be Marked
 - 7.19.2 Height and Arrangement of Equipment
 - 7.19.3 Marking of Gear
 - 7.19.4 Removal of Damaged Gear or Equipment
 - 7.19.5 Overwintering of Equipment on Grants
 - 7.19.6 Fines for Gear Violation
- 7.20 Buffer Zones
- 7.21 Exception to Hours of Operation
- 7.22 Hydraulic Harvesting of Shellfish from Grant Areas
- 7.23 Extension of Acreage Without Permission and Resolution of Boundary Disputes

Section 8 Commercial Shellfishing: Dragging and Dredging

- 8.1 Areas Closed to Dragging/Dredging
- 8.2 One Drag/Dredge at a Time
- 8.3 Size of Drag / Dredge
- 8.4 By-Catch Limited to 20%
- 8.5 No Hydraulic Harvesting
- 8.6 Commercial Permit Required for Dragging/Dredging
- 8.7 Vessels Must be Registered/Documented
- 8.8 Landing of Catch
- 8.9 No Dragging / Dredging Near Licensed Areas

Section 9 Commercial Shellfishing: Diving for Shellfish

- 9.1 Areas Where Diving is Allowed
 - 9.1.1 South of the No-Drag Line
 - 9.1.2 North of the No-Drag Line
- 9.2 No Diving Near Licensed Areas
- 9.3 Flag Requirements
- 9.4 Daily Diving Limits
- 9.5 No Diving in Channel

Section 10 Eeling

- 10.1 Eeling Permit Required
- 10.2 Fykes Not Allowed
- 10.3 No Taking of Glass Eels
- 10.4 Examination of Catch
- 10.5 Catch Limits

Section 11 Enforcement

- 11.1 Enforcement Personnel
- 11.2 Penalties for Poaching or Theft
- 11.3 Authority to Revoke Aquaculture License
- 11.4 Non-Criminal Disposition
- 11.5 Penalty Fees
- 11.6 Duration of Shellfishing Permit Suspensions
- 11.7 Revocation of Shellfishing Permits
- 11.8 Acceptance of Suspension Without Request for Appeal
- 11.9 Disposition of Unlawful Catch
- 11.10 Prior Terms Revoked
- 11.11 Severability Clause

Appendix A Area Maps

Appendix B GPS Coordinates

Appendix C Wellfleet Harbor/No Drag Lines

Section 1. Definitions

*Unless otherwise identified, all cited Sections refer to sections of the Town of Wellfleet Shellfishing Policy and Regulations. The terms listed in this Section, when used in the Town's **Shellfishing Policy and Regulations**, shall have the meanings that follow:*

Applicant – a person applying for a license or permit, for renewal of a license or permit or the transfer of a license or permit.

Formatted: Font: Not Bold

Annual Report - A report that must be submitted to the Town every year before February 28^h which includes the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from a licensed aquaculture area, and an estimate of the total number of each kind of shellfish at the time of such

report, planted or growing thereon ([MGL Chapter 130; Section 65](#)).

Aquaculture - The farming of aquatic marine organism including, but not limited to fish, mollusks, crustaceans, echinoderms and plants. Farming implies some sort of intervention in the rearing process to enhance production including, but not limited to controlled propagation, feeding and protection from predators.

Aquaculture License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land, under coastal waters (1) to plant and grow shellfish using in-bottom or off-bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130; Section 57](#)).

Aquaculture Licensed Area (Grant) - See **Licensed Area**.

Aquaculture Permit (See Permit)

Basket Rake - A hand-held implement used for the harvesting of shellfish, which is similar to but longer than a standard clam hoe, which has a basket and no more than twenty (20) teeth, is no wider than 12 inches at its widest part, does not have a T handle, and is only to be used on foot.

Blood Ark Clam and Ponderous Ark Clam - Bivalves of the species *Anadara ovalis* and *Noetia ponderosa* are some of the few marine mollusks having red blood, due to the presence of hemoglobin. Their shells grow to a length of approximately two or three inches and are fairly thick and sturdy. Each of the two valves has approximately 35 radiating ribs. The complete bivalve, when viewed from the end, is heart-shaped.

Selectboard - The Wellfleet Selectboard (BOS); Wellfleet's elected executive Board, designated by the State ([MGL Chapter 30](#)) as the regulatory Board that has jurisdiction over shellfishing in the Town.

Bull Rake - A T-handled hand-held and hauled implement used for the harvesting of shellfish. It shall be 12 inches or wider and have a fixed basket and teeth.

Bushel - U.S. dry measure; 2150.42 cubic inches, or 32 quarts.

By-Catch - The incidental capture of non-target species.

Captain - The master or individual in charge of a vessel.

Channel - The area marked by U.S. Coast Guard navigation buoys indicating a navigable way of passage.

Chinese Hats - Cones or disks of plastic, usually in stacks, coated with mortar with high lime content, used to collect oyster spat.

Clam Rake - A hand tool of typically eight (8) tines or less, used to manually bring clams to the surface of the substrate.

CMR - Code of Massachusetts Regulations.

Commercial Harvest — The harvest of shellfish for sale, trade, or other consideration.

Container - Any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from other shellfish after harvest, on a lease, or from the entire load or shipment.

Constable (Warden) - The municipal employee, appointed by the Selectboard, who is in charge of administering the management of the fishery; the head of the Shellfish Department of the Town.

(To) Cull - to remove dead, dying, undersized or otherwise unsuitable organisms (also, the organism which is removed).

(To) Dig and Take - (archaic); See **(To) Harvest**

(To) Dive - The use of SCUBA, surface supplied air, or snorkel to harvest shellfish.

DMF - Division of Marine Fisheries.

Documented Vessels - Commercial or recreational vessels registered through the federal system which have a certificate of documentation, recognized both nationally and internationally, as well as an Official Number permanently affixed to the hull.

Domiciled Resident - See **Resident**

Drag / Dredge - A heavy metal frame with an attached bag, which is towed or dragged along the seafloor to catch bottom dwelling shellfish. Some have metal teeth along the base of the frame that act like a rake.

Extension - An extension of a licensed area abutting a pre-existing area licensed by the same individual.

Fyke - A long bag-shaped fishing net held open by hoops that act as a cul-de-sac funnel.

Gems (Vongoles - Quahogs between 7/8 and 1 inch wide (thickness of the hard clam across both valves at the hinge).

Glass Eel - Eel in its transparent, post-larval stage.

Grant - See **Aquaculture License/Licensed Area**

(To) Handpick - The transfer of shellfish to a container from the substrate by hand or with a hand-held tool of eight (8) tines or less.

(To) Harvest - To gather shellfish or other marine organisms in a container of any sort after sorting and separating them from what has initially been taken from the habitat.

Harvesting Area - An area approved for the taking of shellfish.

Handpicker - An individual who practices handpicking.

Hinge Width - The distance between the convex apex of the right shell and the convex apex of the left shell.

Institution – a corporation, association, organization, trust or other entity established by law and that is not a natural person.

Intertidal - The land or area between the mean high and the mean low watermarks.
re

Jerk Rake - modified bull rake employing a harness.

(To) Land - To bring harvested shellfish by vessel to the Town Pier and to tie up before proceeding elsewhere; to bring harvested shellfish ashore above the mean high water line.

License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land under coastal waters (1) to plant and grow shellfish in bottom or off bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130](#), Sections 57 - 68).

Licensed Area (Grant) - a designated bottom area, certified by The Division of Marine Fisheries (DMF) and licensed by a vote of the Selectboard, on which the licensee may plant, grow and harvest shellfish (MGL Chapter 130; Sections 57 & 68).

License Holder - A natural person or group of natural persons, ~~or a firm or corporation~~ holding a license issued by the Selectboard under the provisions of MGL Chapter 130; and this Regulation.

Licensee - See License Holder

Long Raking - method of harvesting shellfish using a long handled bull or basket rake from a boat.

MGL - Massachusetts General Law.

Mean High Water (MHW) / Tide - The average elevation of all high waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of high tide.

Mean Low Water (MLW) / Tide - The average height of the low waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of low tide.

Mussel - A marine mollusk of the species *Mytilus edulis*.

Oyster - A marine mollusk of the species *Crassostrea virginica*.

Permit - A certificate granting permission to engage in specific activities issued by the appropriate authority.

Aquaculture / Seed Permit, issued by DMF

State Aquaculture Permit: "seed" or propagation permit as defined in MGL, Chapter 130; Sections 80 and 69 and CMR 322, Section 15.04 (b)(1).

Authorizes the possession and growing of seed shellfish from an approved source. May be endorsed for the use of upwellers or similar nursery systems to enlarge hatchery seed for planting, but not for resale. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, tagging and record keeping is approved by the Director.

Commercial Shellfishing Permit (Section 6.1), issued by BOS.

Eeling Permit (Section 10), issued by BOS.

Noncommercial, Non-resident, Non-taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

Noncommercial Resident or Taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

— Propagation Permit (Aquaculture Management - Marine Fisheries propagation permit) (Section 7.15.2), issued by DMF.

Shellfish and Seaworm Permit (CMR 322, Section 7.01 (2) (g)), issued by DMF:

Authorizes only the named individual to harvest, possess and land shellfish and seaworms for

commercial purposes, and may be endorsed for the shucking of bay scallops.

Shellfish Transaction Card ([CMR 322, Section 7.01 \(2\) \(k\)](#)), issued by DMF:

Authorizes only the named individual holding a commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

State Commercial [Permit \(Commercial Fishing Permit / Shellfish Permit\)](#), issued by DMF:

Allows an individual to take, land and sell (to a licensed dealer) shellfish and seaworms. A shellfish ID card, from the Division, and town permit are also required.

Person, Natural Person or Individual – shall mean human being. For purposes of this Regulation, any reference to person, natural person or individual shall mean a natural person only and shall not include institutions as defined herein.

Petite Oysters — Aquaculturally reared oysters, whose height (from hinge to shell margin) is between 2.5 and 3 inches.

Planted Areas - Areas in which the Shellfish Department has planted shellfish for purposes of propagation or transplanting.

Poaching — The harvesting of shellfish, illegally, from any area.

Quahog - A marine mollusk of the species *Mercenaria mercenaria*, commonly called the hardshelled clam.

Quart - 67.201 cubic inches (U.S. Dry Measure).

Raking - Gathering oysters and/or other materials using a rake and then transferring this accumulation to a container, vehicle or vessel.

(To) Relay - See **Transplant**

Registered Vessels - Motorized vessels of any size, including those that don't primarily depend on mechanical propulsion, registered with the Massachusetts Office of Environmental Law Enforcement at the Registry and Titling Bureau.

Resident - A ~~declared person who is domiciled in the Town of Wellfleet for the purpose of establishing legal residency of the Town of Wellfleet.~~ Written proof that Wellfleet is the applicant's domicile and as well as the legal residence of the applicant shall be required to the satisfaction of the Shellfish Constable and Selectboard. Domicile will be established after one year of residency in Wellfleet is demonstrated. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data, or passport, utility bills, or any combination thereof.

Scallop - A marine mollusk of the species *Aequipecten irradians*, commonly called Cape scallop or bay

scallop. **(To) Scratch** - To harvest clams with the aid of a clam rake.

Seed - Quahogs, with the exception of gems, less than (1) one inch wide, across both valves at the hinge, soft-shell clams less than (2) two inches in length (the largest measurement, 90 degrees from the hinge to outer margin of the shell); oysters, with the exception of petites, less than (3) three inches in height (from hinge to outer margins of the shell), and scallops without a defined annual growth ring.

Seed Permit - See Permit.

Shellfish Constable - See Constable

Softshell Clam (Steamer) - A softshell clam of species *Mya arenaria*.

Shellfish - Softshell clams, whelks, mussels, oysters, snails, quahogs, razor clams (razor fish), bay scallops, sea

scallops, sea clams, and blood arks.

Spat - An oyster or similar bivalve mollusk in the larval stage, especially when it has settled on and attached itself to a surface on which it can then proceed to grow.

Subtidal - The body of water or area below that of mean low water for spring tides; habitats rarely, if ever, completely uncovered by low tides.

Surf Clam (Sea Clam) - A clam of species *Spisula solidissima*.

(To) Take - To harvest.

Taxpayer — An individual ~~or corporation~~ who owns residential land in Wellfleet for which they are taxed by the Town. For properties owned by trusts, life estates or other instruments that distinguish between current and future ownership interests, only those with a present right to occupy the property shall be considered owners. In the case of a trust, it shall be the trustees. Employees, officers, directors, and shareholders of corporations, limited liability companies or other similar institutions shall not be considered taxpayers.

Tongs - A hand-held and hauled implement used for the harvesting of oysters. They have a scissor mechanism to close two baskets upon themselves.

Town - The town of Wellfleet.

Transaction Card - See **Permits**; Shellfish Transaction Card.

(To) Transfer - To grant the right to use a previously established, licensed area, as allowed by MGL Chapter 130: Sections 57 and 58, and approved by a vote of the Selectboard.

Transferee - ~~Individual or entity~~ Person to whom the right to use a previously established, licensed area for aquaculture has been granted by a vote of the Selectboard.

(To) Transplant - The moving of shellfish from one area to another.

Undersized Oysters, Quahogs and Surf Clams - Oysters whose greatest length is between 2.5 and 3"; quahogs whose hinge width is between 7/8" and 1"; surf clams whose shell diameter is between 1 1/2" and 5".

Warden - See **Constable**

Waters - Coastal waters, tidal flats, tidal creeks, and all salt or fresh waters within the boundaries of the Town of Wellfleet.

Week - The calendar week commencing at 00:01 A.M. Sunday and ending at 12:00 Midnight Saturday.

Wet Storage - The temporary placement of legally harvested shellfish from an area open to shellfishing onto an area licensed for aquaculture, for the purpose of maintaining their health in an optimal environment or for the purpose of allowing them to purge themselves of sand and other inedible matter, before transporting them to market.

Section 2. Shellfishing Policy for the Town of Wellfleet

Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure

equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including

[Massachusetts General Law Chapter 130, Code of Massachusetts Regulations 322](#), and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

To implement this policy, the Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing.

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Section 3. Informing the Public of Information and Meetings Concerning the Fishery

3.1. Posting of Shellfishing Policy and Regulations

Current copies of this Shellfishing Policy and these Regulations, and any amendments thereto, will be available in the Selectboard's office, the office of the Town Clerk, the Shellfish Department office, and the Wellfleet Public Library. They shall be also posted at the Wellfleet and South Wellfleet Post Offices ([MGL Chapter 130: Section 52](#)), as well as on the official website of the Town.

3.2. Posting of Hearings about Aquaculture Licenses, Held by the Selectboard

As required by [MGL Chapter 130: Section 60](#), all hearings held by the Selectboard for the granting, transferring or renewal of aquaculture licenses must be posted in three public places, and advertised in a local newspaper at least ten (10) days before that hearing is to take place, as well as the Town's web site as soon as the date of the hearing has been determined by the Board. The posting must provide the name of the applicant(s), their residence, and the date of the filing of the application, and the specific location and description of the acreage to be licensed.

3.3. Open Meeting Law

Compliance with [MGL Chapter 30A: Sections 18-25 \(Effective July 1, 2010\)](#) (the Open Meeting Law) and [940 CMR 29.00](#) is required for all municipal meetings, above and beyond the requirements of Sections 3.1 and 3.2.

Section 4. General Regulations (Applying to the Noncommercial and Commercial Shellfisheries As Well As Shellfish Aquaculture)

4.1. Areas Where Commercial and Noncommercial Shellfishing May Take Place

(See also Appendixes and Section 8.1 Areas Closed to Dragging and Dredging)

Commercial-only area: north of a line from the seaward end of the breakwater to the easternmost tip of Great Island (with the exception of Chipman's Cove) marked by a red and white striped pole. This area is subject to seasonal restrictions.

Noncommercial-only area: (Area 2, in CCB 11; see Section 4.2) off Indian Neck, south from the Breakwater to the second groin. This area is subject to seasonal restrictions (see Section 5.1).

Commercial and Noncommercial area: includes all the rest of the harbor except buoyed grants. This area is subject to seasonal restrictions

4.2. Area and Boundary Locations (See Appendix A and C for Area Maps and Appendix B for Specific GPS Locations)

4.2.1. Areas

Area 1: All marine waters and intertidal areas north of the No-drag Line, excluding Chipman's Cove.

Area 2: (Within CCB 11.) All marine waters and intertidal areas landward of the area enclosed by the #14 navigational beacon at the seaward end of Indian Neck breakwater to a point near the #12 channel marker and thence inshore to the end of the first groin south of the Burton Baker Landing.

Area 3: All marine waters and intertidal areas in the waters of the Town, excluding Areas 1 and 2.

4.2.2. Boundaries

Blackfish Creek: (Within CCB 14.) All marine waters and intertidal areas enclosed east of a boundary from the parking lot at Fox Island, marked with a striped pole, to the western edge of the house at the northwestern tip of Lieutenant's Island, and north of the Lieutenant's Island Bridge.

Chipman's Cove (within CCB 13): All marine waters and intertidal areas enclosed south of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, and east of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

Duck Creek (within CCB 13): All marine waters and intertidal areas enclosed north of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, east of Commercial Street, and south of Uncle Tim's Bridge.

East Side (within CCB 11): From the breakwater at Indian Neck to the Eastham Town Line.

Eastham / Wellfleet Town Line: (Southernmost boundary of CCB 11.) For the purposes of shellfishing, the boundary runs down the middle of Hatches Creek, and westerly from the official boundary marker in Hatches Creek to the Eastham/Wellfleet boundary marker on Billingsgate Island and thence in the same direction to State waters.

Egg Island/Egg Island Channel (within CCB 11): Channel and tidal flats south of Power's Landing and Keller's Corner, and north of the block grants.

Herring River (within CCB 12): All marine waters and intertidal areas enclosed west of a boundary from the main flagpole at the Chequessett Neck Club to a point on the tip of Great Island, marked with a striped (candy cane) pole, and south of a boundary determined by the Massachusetts Division of Marine Fisheries, marked with poles on either side of the river.

Inside L Pier (within CCB 13): All marine waters and intertidal area enclosed by the L Pier, and west of a boundary from the southeastern tip of the L Pier to the eastern high point of the Town Boat Ramp.
Main Harbor (within CCB 11): All marine waters and intertidal areas within Wellfleet Harbor, excluding Blackfish Creek, Chipman's Cove, Duck Creek, Herring River, Mayo Beach and South Lieutenant's Island.

Mayo Beach (within CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the main flagpole at the Chequessett Neck Yacht Club to a point on the tip of Great Island, marked with a striped pole, north of the No Drag Line, and west of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

South Lieutenant's Island (CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the osprey nest pole on the southern end of Lieutenant's Island to the Eastham/Wellfleet marker in Hatche's Creek, and south of the Lieutenant's Island Bridge.

Wellfleet Harbor (CCB 10, 11, 12, 13, and 14): All marine waters and intertidal areas enclosed north of the Eastham/Wellfleet Town Line, and east of a boundary from the Eastham / Wellfleet boundary on Billingsgate Island to the southern tip of Jeremy Point.

West Side (within CCB 11): The portion of the west side of Wellfleet Harbor immediately southeast of the no quahog dredge line (see below), offshore from the area commonly known as Middle Meadow.

No-drag Line:

1: Line extending from the navigational beacon (#14) at the seaward end of Indian Neck breakwater to a point on the tip of Great Island, marked with a striped (candy cane) pole.

2: Line extending from the striped pole on Field Point to the boathouse on Lieutenant Island.

No-quahog-dredge Line: Line extending from a point in Middle Meadow marked with a striped pole, towards the US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach, ending where this line meets the No-drag Line (near the rocks known as Old Saw).

4.3. Landing of Shellfish

Landing of Shellfish: All shellfish harvested in Wellfleet shall be landed in Wellfleet.

4.4. Daily Limit

No permit holder shall take shellfish or other marine organisms in excess of the daily limit. Noncommercial limits (Section 5.3.2); commercial limits (Section 6.3).

4.5. No Same Day Landings in Excess of Daily Limit

No person shall come ashore with shellfish and return to the waters of the Town on the same day for the purpose of taking additional shellfish in excess of the daily permit limit.

4.6. Landing Shellfish Before Shucking

No shellfish shall be brought ashore except in their shells with the exception of sea scallops.

4.7. Daily Time Limits

No person shall harvest, pick, dig, pile, take or carry away any shellfish from the waters of the Town, by any method between one half (1/2) hour after sunset and one half (1/2) hour before sunrise. ([MGL Chapter 130: Section 68](#))

4.8. No Shellfishing Below 28 Degrees Fahrenheit

Except in areas licensed for aquaculture, no shellfishing shall be carried on when the air temperature is below 28 degrees Fahrenheit (2 degrees Celsius), as determined by the Shellfish Constable and as indicated by a buoy displayed on the flagpole next to the Shellfish Office, on the Shellfish Department answering machine and on the Town website.

4.9. Poaching

Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130; and Section 11. 6 [Revocation of Shellfishing Permits.](#))

4.10. Disturbance of Grant by Other Than Licensee

No one may in any way disturb the growth or arrangement of shellfish on a licensed area, or work a dredge, or use any other implements to harvest shellfish, or discharge any substance which may directly injure the shellfish upon a licensed area, or willfully damage, remove or tie up to any of a grant's designating boundary markers, without the express consent of the licensee. No one, while upon or sailing over any such licensed acreage may have overboard any implement for the taking of shellfish, under any pretense or purpose whatever, without the expressed consent of the licensee. (See MGL Chapter 130; [Section 66](#) and [Section 67](#))

4.11. License and/or Permit Required

All persons fourteen (14) years old or older engaged in taking, removing, or having in possession eels, sea worms or shellfish, including soft-shelled clams, quahogs, surf clams, sea clams, razor clams, oysters, mussels, and scallops, taken from the waters of the Town shall have an appropriate license or permit obtained and used only in accordance with all terms, conditions and restrictions.

4.12. Inspection on Demand

All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents.

4.13. Display of Permit/License

Individuals engaged in shellfishing, eeling or gathering sea worms must have a Town license or permit prominently displayed and show the same on demand to Shellfish Officers, Police Officers or other duly authorized agents.

4.14. Possession of Seed Restricted

No person who does not hold a state propagation permit or an aquaculture license shall have in his or her possession seed shellfish, defined as; quahogs less than one (1) inch wide (thickness of both valves across the hinge); soft-shell clams less than two (2) inches in length; oysters less than three (3) inches in height (except for aquaculture license holders under certain conditions as specified in Section 7.16 (Undersized Oysters, Quahogs and Surf Clams) or bay scallops without a well defined raised annual growth line. A violation of this regulation shall exist if the take contains more than 5% seed shellfish per batch (see Section 7.15 [Shellfish Seed](#)).

Commented [GJC1]: Should this be "and"?

4.15. Methods of Harvest

The taking of any shellfish from the waters of the Town of Wellfleet by any method other than those commonly known as handpicking, long raking, bull raking, jerk raking, basket raking, scratching, tonging, digging, dragging or dredging (See Section 8: [Commercial Shellfishing: Dragging and Dredging](#)) ~~will be~~ is prohibited.

A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area.

4.16. Detrimental Practices of Harvesting by Hand Prohibited

It is prohibited to harvest any species of shellfish in a manner that inhibits the growth or survival of any other species of shellfish.

4.17. Handpicking or Scratching-only Areas

Handpicking, scratching or basket raking are the only permitted methods of harvesting shellfish, north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw, thence in the same direction to Great Island at Mean High Water except when otherwise allowed by the Selectboard. A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area. (See Appendixes for area maps and GPS coordinates.)

4.18. Transplanting

4.18.1. Transplanting Shellfish Outside of Wellfleet Waters

No shellfish of any size shall be taken out of the Town for the purpose of transplanting or to be placed in any waters outside the limits of the Town without the proper permits.

4.18.2. Transplanting Shellfish Into Wellfleet Waters

No shellfish shall be planted or transplanted into the waters of the Town, without the proper permits, certificates of origin, and approval by the proper authorities.

4.18.3. Harvesting Seed from the Wild Not Generally Allowed

The handpicking of oyster seed from the public resource is prohibited with the following exception: from time to time, under special conditions identified by the Shellfish Constable, recommended by the Shellfish Advisory Board and approved by a vote of the Selectboard, oyster seed may be taken for the purpose of transplantation.

4.19. Areas Restricted to Use by Permit Class

No holder of a commercial permit shall take shellfish from an area reserved for the holders of noncommercial permits and vice-versa.

4.20. Annual Opening and Closing of Scallop Season

Scallop season shall open October 1st and shall close April 1st the following year, except when otherwise regulated.

4.21. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or intertidal Areas provided that such use is permitted by the Conservation Commission. (See Section 6.5 Use of Motorized Vehicles for Shellfishing.)

Section 5. Noncommercial Shellfishing

5.1. Seasonal Restrictions: Open and Closed Areas

The opening and closing of noncommercial shellfishing areas, as well as catch limits, may be subject to change by vote of the Selectboard. (See Section 5.3.2 Noncommercial Catch Limits) Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Chipman's Cove: closes for the taking of all shellfish on April 30 and reopens on the last Sunday in October, unless otherwise regulated.

Area 2 (Indian Neck): open for the harvesting of shellfish, with the following limits and on the following days, unless otherwise regulated:

- June 1 through September 30; will be open Sundays and Wednesdays, annually.
- October 1 through May 31; will be open seven (7) days a week, annually.

Area 3 (The rest of the Harbor with the exception of commercial-only areas): Open for the harvesting of shellfish on the following days, unless otherwise regulated:

- June 1-September 30; will be closed to all noncommercial shellfishing, annually.
- October 1-May 31; will be open seven (7) days a week, annually. (See Section

4.1.) 5.2. Permits

5.2.1. Eligibility for Noncommercial Permits

Annual and seasonal noncommercial permits may be issued to any person~~anyone~~, twelve (12) years of age or older. Veterans of the Commonwealth of Massachusetts are entitled to a fee not greater than the fee charged to residents of the Town of Wellfleet upon presentation of their Veteran ID card. In addition, non-resident employees of the Town of Wellfleet are entitled to one (1) recreational shellfishing permit at the resident rate; this is only valid for the employee him- or her-self while currently employed by the Town.

5.2.2. Noncommercial Permit Fee Schedule (amended 12/20/2022: \$10 increase) **Annual Permits** (Jan.1-Dec. 31)

Resident or Taxpayer	70.00
Resident or Taxpayer over 65 years old	30.00
Nonresident or Nontaxpayer	220.06
Massachusetts Resident Veteran Permit*	70.00'
Massachusetts Resident Veteran Permit over 65 years old *	30.00
Town of Wellfleet Employee	70.00
Town of Wellfleet Employee over 65 years old	30.00

Seasonal Noncommercial Permits (June 1— Sept. 30)

Resident or Taxpayer	50.00
Non-resident or Non-taxpayer	95.00
Massachusetts Resident Veteran Permit*	50.001
Town of Wellfleet employee	50.00

Replacement Fee (for all categories) 30.00

*To enjoy the Massachusetts Veteran Discount, applicants must provide:

1. A Massachusetts license bearing the Veteran seal,
2. A Massachusetts license and a DD-214 form
3. A Massachusetts license and a Veteran ID card issued by the U.S. Department of Veteran Affairs

5.3. Noncommercial Shellfishing Regulations

5.3.1. Required Icing and Shading of Harvest in Warmer Weather

During the *Vibrio* control period, as determined annually by the DMF (see 322 CMR 16.00 Shellfish Harvest and Handling) due to concerns about the presence of *Vibrio parahaemolyticus*, oysters taken by noncommercial permit holders shall be put in a container and surrounded by ice made from potable water within two (2) hours of the time when the first oyster (harvested on a given day) is taken from the water or, in the case of intertidal harvest, the time of first exposure to the air by tide.

All oysters taken from the water shall be protected from direct exposure to sunlight during harvest and subsequent transport from the harvest area to any destination, at all times.

With the first offense of this section, the harvester will lose his or her catch. With any subsequent offense, the harvester shall lose his or her catch and noncommercial permit for one year.

5.3.2. Cannot Harvest for Commerce

No person holding a noncommercial permit shall harvest shellfish, eels or sea worms for the purpose of sale, trade or other consideration.

5.3.3. Noncommercial Catch Limits

The total amount of shellfish, comprising oysters, quahogs, soft-shell clams or razor clams, blood ark clam or ponderous ark clam taken in one (1) week shall not exceed ten (10) quarts, and the total amount of mussels taken in one (1) week shall not exceed ten (10) quarts, or the total amount of scallops taken in one (1) week shall not exceed one (1) bushel, or the total amount of surf (sea) clams taken in any one (1) week shall not exceed one (1) bushel. The total number of sea worms taken in one (1) day shall not exceed twenty-four (24). There is a 20 lb. limit on the amount of eels that can be taken in one day.

[This section contains extremely faint, illegible text, likely bleed-through from the reverse side of the page.]



Section 6. Commercial Shellfishing

6.1. Commercial Permits

6.1.1. Eligibility For Commercial Permits

A commercial permit may be issued to any ~~Natural P~~ person fourteen (14) years of age or older, who is a domiciled resident of Wellfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen (14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person's birthday. Residents over 65 may be issued senior permits.

Commercial permits will not be issued to unnaturalized foreign born persons who have not resided in Barnstable County at least five (5) years prior to making application ([MGL Chapter 130: Section 55](#)).

6.1.2. Domicile Requirement and Exception

Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet, with the exception of those who have previously held a commercial permit for at least two (2) years, and who have temporarily lost housing in Wellfleet for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of domiciled residency, as defined in Section 2 of these regulations, and verified by the Shellfish Constable, must be resumed within eighteen (18) months from the time of the permit holder's removal to another town or the permit will then be revoked.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the permit holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

~~If the permit holder acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen (18) month period for reestablishing residency, the permit will automatically be revoked and the licensee will not be eligible to reapply unless and until they meet the eligibility requirements in Section 6.1.1 and 6.1.3.~~

~~No commercial permit or aquaculture license from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term, but they may re-apply for their annual commercial permit as per Section 6.1.3.~~

6.1.3. Commercial Permit Requirements

~~Annual commercial permits will be issued from December 1 through January 31^s of the permit year. Applications for commercial permits will be accepted between December 1 and January 31 and shall subject to a thirty (30) day review of the application by the Shellfish Constable prior to submission to the Selectboard for a vote. Annual commercial permits are valid from Jan. 1 through Dec. 31. Permits will only be issued after the applicant has shown proof of having a valid State commercial permit with a shellfish endorsement and a valid shellfish transaction card from the DMF. [CMR 322 7.01 \(2\) g, i, k](#)~~

Commercial Permit Fee Schedule (amended 12/20/2022 to require all grant a commercial shellfishing permit)	
Resident	\$310.00
Senior Resident (65 years or older)	\$60.00
Junior Resident (14-16 years old)	\$110.00
Eel Permit	\$3.00

Commented [GJC2]: I recommend adding the requirement for a commercial shellfish permit in the eligibility section.

Replacement Fee (for all categories)	\$20.00
--------------------------------------	---------

6.1.5. Hardship Exemption

The Selectboard may at its discretion grant permits applied for after January 31' if the applicant demonstrates **all three** of the following conditions:

- that unusual circumstances existed which would reasonably excuse a failure to file an application prior to February 1', and
- that a substantial hardship would be caused by the refusal of a permit, and
- that the granting of the late permit would not affect the opportunity of applicants, who have applied in a timely manner, to harvest a reasonable quantity of shellfish.

6.2. Commercial Shellfish Regulations

6.2.1. Required Icing and Shading of Product

Annually, during the period of time that the DMF's *Vibrio* control plan is in effect, harvesters must comply with the State's regulations. (See 322 CMR 16.00 Shellfish Harvest and Handling.) In addition to any other applicable penalties, wWith the first offense of this section, the harvester will lose his or her product. With any subsequent offense, the harvester shall lose his or her product and license and/or permit for one year.

6.2.2. Harvest Must Be Tagged

At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags.

6.2.3. Minors Under Fourteen (14) Without Permit

Persons under fourteen (14) are permitted to harvest shellfish in a commercial area while under the supervision of a parent or guardian holding a commercial permit. No shellfish may be taken in excess of the daily limit of the permit held by the parent or guardian.

6.2.4. Commercial Catch Limits

6.2.4.1. Bay Scallops

No vessel shall take more than ten (10) bushels (tied) of scallops, including shells. No more than twenty (20) bushels (tied), shells included, shall be taken by any vessel having two (2) or more permit holders on board, in one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.2. Mussels

There is no limit to the taking of mussels per commercial permit per day.

6.2.4.3. Oysters

- a. Hand Picking: no commercial permit holder shall take more than five (5) bushels of oysters, including shells, per day.
- b. Dragging / Dredging: No more than five (5) bushels of oysters including shells, per commercial permit holder shall be taken by a vessel in any one (1) given day. No more than ten (10) bushels including shells shall be taken by any vessel having two (2) or more commercial permits aboard in any one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.4. Quahogs

a. Hand Picking: No commercial permit holder shall take by raking more than five (5) bushels of quahogs, including shells, in any one (1) day.

b. Dragging / Dredging: No more than fifteen (15) bushels of quahogs including shells, shall be taken by a vessel having one (1) commercial permit aboard, in one (1) day. Captain of said vessel shall be cited for each violation. No more than twenty-five (25) bushels including shells shall be taken in one (1) day by a vessel having two (2) commercial permits aboard. The captain of said vessel shall be cited for each violation.

6.2.4.5. Razor Clams

No commercial permit holder shall take more than two (2) bushels of razor clams in any one day.

6.2.4.6. Sea Worms

No commercial permit holder shall take more than forty-eight (48) sea worms in any one (1) day.

6.2.4.7. Soft-shell Clams

No commercial permit holder shall take more than three (3) bushels of soft-shell clams in any one (1) day.

6.2.4.8 Blood Ark Clam or Ponderous Ark Clams

a. Hand picking: No commercial permit holder shall take more than 10 (ten) bushels of ark clams, including shells, in any one day.

b. Dragging/Dredging: No more than ten (10) bushels, including shells, shall be taken by a vessel having one (1) commercial permit holder, in one (1) day. No more than twenty (20) bushels, including shells, shall be taken in one (1) day by a vessel having two (2) commercial permit holders aboard, in one (1) day. The captain of said vessel shall be cited for each violation.

6.3. Daily Area Catch Limits - 1 bushel = 32 quarts

Area	Oysters	Quahogs	Soft-shell clams	Blood Ark/ Ponderous Ark Clams
Herring River	1 bushel	1 bushel	1 bushel	10 bushels
Mayo Beach	1 bushel	2 bushels	3 bushels	10 bushels
Duck Creek	1 bushel	1 bushel	1 bushel	10 bushels
Blackfish Creek	1 bushel	2 bushels	3 bushels	10 bushels
Main Harbor	5 bushels	5 bushels	3 bushels	10 bushels
Chipman's Cove	1 bushel	1 bushel	1 bushel	10 bushels
South Lt. Island	1 bushel	1 bushel	3 bushels	10 bushels

6.4. Seasonal and Other Restrictions: Open and Closed Areas

The opening and closing of these areas, as well as catch limits, may be subject to change by vote of the Selectboard. Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Dragging or diving within 25 feet of all areas licensed for shellfish aquaculture is prohibited.

(See Section 8.9 No Dragging/Dredging Near Licensed Areas)

6.4.1. Chipman's Cove:

- a. Harvest dates: Chipman's Cove will close for the taking of all shellfish on April 30 and will reopen on the last Sunday in October of the current year, unless otherwise regulated.
- b. Landing Sites - All shellfish are to be landed at the end of Old Pier Road, at the Marina boat ramp or piers, or from a point on the road along the southern perimeter of the Cove nearest the harvesting site, unless permitted otherwise by the Shellfish Constable.
- c. Harvesting Restrictions-All shellfish are to be removed from the area at the time of harvest. No shellfish are to be left on the flats and removed at a later time of day, by any means or methods. Diving for shellfish is prohibited.
- d. Spat collection area-An area of Chipman's Cove for placement of oyster spat collection by shellfish grant license holders, approximately 300' by 300' marked by yellow buoys, will be so designated from June 1 through October 31 of current year, unless otherwise regulated.

6.4.2. Duck Creek:

- a. Harvest dates - Duck Creek will open for the taking of all shellfish on December 1 and will close on April 30, pending State approval, unless otherwise regulated.
- b. The taking of shellfish from the bulkheads, pilings and adjacent flats in the area of the "L" pier, behind the fuel dock and inshore of the finger piers near the boat ramp shall be PROHIBITED until further notice.

6.4.3. Herring River

Herring River will be open to shellfishing on a conditional basis as directed by the DMF. The dates of opening and closure will be approved by a vote of the Selectboard
The area is open to the taking of shellfish by Wellfleet Commercial permit holders only. Scuba diving for shellfish is prohibited.

6.4.4. West Side:

The West Side of Wellfleet is open to the taking of shellfish by any means EXCEPT by use of a quahog dredge.

6.4.5. Egg Island:

- a. The north side of Egg Island from the flag pole at Chequessett Country Club easterly to the Town Pier is open year round for the taking of quahogs and oysters.
- b. Diving from a boat is permitted with the usual restrictions and conditions. The use of scratcher and basket rakes and clam hoes will be allowed; no other methods of harvest are permitted. (See also Section 9 **Commercial Shellfishing: Diving for Shellfish**)

6.4.6. Blackfish Creek:

Blackfish Creek will be open year round for the taking of quahogs, soft-shelled clams and oysters.

6.4.7. South Lieutenant Island

South Lieutenant Island will be closed for the taking of oysters from June 1st through September 30th.

6.5. Use of Motorized Vehicles for Shellfishing

6.5.1. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or in

intertidal areas. (See Town of Wellfleet General Bylaws under ARTICLE VII GENERAL - [Section 24. Beach Vehicular Traffic By-Law.](#))

6.5.2. Terms and Conditions for Use of Motorized Vehicles

All use of vehicles to access areas licensed for aquaculture or other areas open to commercial permit holders, shall also be in accordance with the applicable general bylaws of the Town, and conditions, which may be imposed by the Conservation Commission.

6.5.3. Speed Limit on Beaches and Intertidal Areas

No person engaged in commercial shellfishing or aquaculture shall operate a motorized vehicle at a speed in excess of fifteen (15) miles per hour or a motorized vehicle which is dual wheeled or which has a gross vehicle weight (GVW) greater than nine thousand two hundred pounds (9200 lbs.) on any tidal beach or flat or other land below the mean-high water line.

6.5.4. Allowed Line of Access for Vehicles

Persons engaged in commercial shellfishing or aquaculture operating motorized vehicles on any tidal beach or flat or other land below the mean-high water line shall drive only on the foreshore of the tidal area below the high tide line but above the tidal flat, closely rounding every groin or other obstruction extending below the high water line, to a point opposite a licensed area, and thence to the licensed area. The traffic not directed to a licensed area shall be confined to the area below the high tide line above the tidal flat, closely rounding any groin or other obstruction extending below the high water line. Parking is permitted on the licensed area or in the access route to a licensed or legal harvesting area as described above. - The use of motorized vehicles above the mean high water line shall be subject to any requirements or limitations imposed by private property owners.

Section 7. Shellfish Aquaculture

7.1. Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Surveyed and Subdivided by the Town. Once areas are identified by the Shellfish Constable as potentially suitable for the location of shellfish aquaculture, and the areas are under the control of the Town, the Selectboard may exercise their discretion as the licensing authority for the issuance of license/s for shellfish aquaculture (grants) in compliance with [MGL Chapter 130](#). The Selectboard shall post notice of the availability and location of such acreage, as well as any applicable conditions and/or limitations upon such acreage, on the Shellfish Department's notice board, at Town Hall and on the [Town Website](#).

7.2. Previously Established Grants that Become Available

In the event that a licensed aquaculture area previously certified by the DMF becomes available, its status shall be posted by the Shellfish Constable (see Section 3; [Informing the Public of Meetings Concerning the Fishery](#)) for a period of 30 calendar days. During that time frame, the Town will accept applications from Natural Persons whose names do not already appear on other existing licenses and who meet the eligibility requirements in Section 7.8.1. If more than one qualified person (as described in Section 1 under Domiciled Resident, and Section 7.8.1 [Eligibility Requirements](#)) whose name does not appear on another license applies to hold the license, the Selectboard shall hold a public lottery within 14 days of the close of the advertising period to impartially determine who shall be granted the right to apply for the license. Once chosen, the application will be evaluated in accordance with Section 7.6. Process for Approval of Aquaculture Licenses. The submission of an application or having one's name drawn in the lottery does not guarantee that the application will be granted and the Selectboard reserves the right to reject any and all applications. ~~use such available acreage for aquaculture. No shareholder, officer, director or other individual holding a similar position having a different title but exercising a similar role, of a corporation that currently holds an aquaculture license in Wellfleet may apply for such grants.~~

7.3. Annual License Fee

The annual fee for an aquaculture license to be paid to the Town by each licensee shall be \$25.00 per acre (or portion thereof), as required by [MGL Chapter 130; Section 64](#). Annual fees are due each year by February 28, when annual grant reports are due.

7.4. Location of Areas Licensed for Aquaculture (Grants)

Grants may be located in the following areas:

Area 1: On tidal flats off Mayo Beach and Chequessett Neck from the eastern boundary of the Town property at Powers Landing to the Town Pier and at least three hundred (300) feet northward of a line from the seaward end

of the Breakwater to the easternmost tip of Great Island, except in the area above mean low water on Egg Island.

Area 2: On tidal lands lying north and easterly of the Breakwater and of the northerly tip of Indian Neck.

Area 3: On tidal lands off Indian Neck from Omaha Road south to the eastern tip of Field Point.

Area 4: On tidal lands off the westerly side of Old Wharf Point and at the entrance to Loagy Bay.

Approval of the proposed licensed area shall be determined by the Selectboard with appropriate regard for reasonable navigational and recreational interest in the areas concerned.

7.5. Conditions for Use of Area Licensed for Aquaculture

The Selectboard may license specific areas beneath the waters of the Town to Natural Persons individuals for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of MGL Chapter 130, those set forth in current regulations of the Division of Marine Fisheries, these regulations or other town bylaws, as well as any specific conditions or restrictions set forth in the license by the Selectboard.

This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish ~~is prohibited. upon privately owned property may not proceed over the objection of the property owner.~~ This license does not authorize any entry upon or damage to private property or other violation of private rights. The issuance of this license is not a determination of title or ownership. The licensee acknowledges that it is the responsibility of the licensee to obtain permission ~~if requested in writing,~~ from the property owner before exercising the rights conferred by the license ~~other than for the planting, growing and harvest of shellfish on that property.~~ However, ~~T~~he license holder is on notice that the owners of the property described in the license may nevertheless bring an action for trespass in a court of competent jurisdiction ~~if permission is not secured.~~ A license holder may not rely on this license as a defense to an action in trespass. (MGL Chapter 130; Section 57.)

7.5.1 Access to Areas Licensed for Aquaculture is Required

There will be permitted and designated access to all licensed acreage. The method or methods of access shall be precisely specified in the text of the aquaculture license (grant/lease) granted by the Selectboard. Access to grants over private property shall be subject to the discretion of the private property owner and may be prohibited or restricted.

7.5.1.1. Vehicle Access to Grants

Vehicle access will only be allowed when:

- a. Town roads and Town landings are used;
- b. The owners of private roads to be used have agreed to the use ~~no objection;~~
- c. The specific route of entry from the roadway onto the beach and flats is approved and conditioned by the Conservation Commission.

7.5.1.2 Non-vehicular Access to Grants

Access by foot and/or boat shall be designated in the aquaculture lease, in all cases in which vehicle access is not possible or permitted.

7.6. Process for Approval of Aquaculture Licenses

The Selectboard shall accept and process applications for area licenses in accordance with MGL Chapter 130; Section 57. and the application procedure of the Town.

7.6.1 Application Procedure

This procedure applies to new grant applications, applications for extensions to current grants and grant renewals and transfers. All ~~potential new lease holders Applicants, including applicants for renewal of existing grants,~~ must meet the eligibility requirements in Section 7.8.1 Eligibility Requirements. In addition, current license/lease holders applying for renewal. to be added to another grant or applying for

extensions of existing grants must have complied with all Town of Wellfleet Shellfishing Policy and Regulations for at least three (3) years preceding the application for each grant license to which the applicant is named. These include but are not limited to: Section 7.3 Annual License Fee, 7.12 Evidence

of Productivity: Use It or Lose It, 7.13 Annual Report, 7.14 Annual Inspection of Each Grant, 7.15.1 Required State Seed Propagation Permit and 7.19 Aquaculture Gear and Equipment. If applicant meets all criteria outlined above, then the following is required:

1. Fill out an aquaculture license application and get Shellfish Constable signature. Applications available at Shellfish Department offices.
2. Go over the Checklist for Aquaculture ~~License~~ Applicants with the Shellfish Constable, who shall provide any additional documentation required, such as a form for a Five-Year Business Plan and a template for a letter to the Selectboard.
3. For new grants and extensions:
 - a. Determine whether property owner permission is needed, and if so, obtain written permission.
 - b. Schedule a site visit with Shellfish Constable and Harbormaster to assess the area, ensure the shellfish growing area has an appropriate classification for aquaculture, review approximate coordinates for the new grant boundaries and discuss any potential conflicts. The applicant should include the proposed coordinates and map in the documentation provided to the Shellfish Constable for the Selectboard.
 - c. Have Harbormaster review proposal with regards to reasonable navigational and recreational interests in the areas concerned. (See 7.4 Location of Areas Licensed for Aquaculture (Grants).)
 - ~~d. Set up a site visit with the Harbormaster and Shellfish Constable.~~
4. ~~If the application is complete, including payment of all applicable fees,~~ The Shellfish Constable ~~will~~ request that ~~the~~ public hearing be placed on an upcoming Selectboard meeting agenda and contact the Principal Clerk for advertisement and posting.
5. The Shellfish Constable shall write a letter of recommendation or concern and shall provide all relevant grant application documents for the Selectboard hearing by the meeting packet deadline.
6. By or before the date of posting the public hearing, the Shellfish Department shall make contact with and provide notification of the date of the hearing to applicant, the Harbormaster and to intertidal abutters who share boundaries with the proposed site, or who are otherwise adjacent or substantially affected by the change in area, as determined by the Shellfish Department.
7. ~~A public hearing shall be held within 60 days of when the~~ No public hearing will be conducted until the Shellfish Constable receives the complete written application with all required documents and payment of applicable fees, ~~and~~ the Selectboard shall determine the outcome of the application and issue a decision.
8. Upon approval by the Selectboard and after the Massachusetts Division of Marine Fisheries biological survey, the applicant must simultaneously
 - a. have the new site professionally surveyed and supply the Shellfish Department with all boundary coordinates in decimal-degrees, and
 - b. start the state and federal permitting process, including, but not limited to, applications for MEPA (MA Environmental Policy Act) if area is a half acre or larger, Notice of Intent (Wetlands Protection Act filing), Chapter 91 authorization, eligibility under the Army Corps General Permit, etc. For more details, visit: <https://www.massaquaculturepermitting.org/>
9. Before the applicant can begin to use the site, they shall be required to clean up and remove all old and/or derelict aquaculture gear that may have accumulated on the site as per Section 7.19.4 Removal of Damaged Gear or Equipment and shall have a grant inspection by the Shellfish Department to confirm its readiness.
10. All application requirements shall be at the Applicant's sole cost and expense.

7.7. Moratorium on Aquaculture Licenses

The Selectboard may at a duly advertised public hearing declare a moratorium (a time-specific closure) on license approvals at any time this action is deemed appropriate and in the best interests of the fishery and the environment.

7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: Licenses shall only be issued to Natural Persons who are Ddomiciled Residents (See Sec.1 Definitions) of the Town, 18 years of age or older, who hold valid Commercial Shellfish Permits, and who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the

Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant ~~may be disqualified if they have been found responsible for one or more~~ shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

7.8.2. Domicile Requirement and Exception

At such time as a licensee ceases to be a domiciled resident of the Town, that individual shall be removed from the license ~~and the license shall be deemed revoked unless other eligible licensees remain on the license.~~ ~~except~~ This section shall not require removal or revocation in the event of loss of housing for reasons clearly beyond ~~their~~ individual's control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section 12 of these Regulations (Definitions), must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the licensee's ~~holder's~~ removal to another town, or the licensee will be removed from the license ~~and the license shall be deemed revoked unless other eligible licensees remain on the license.~~

Within 30 days of the nine-month anniversary of losing his/her domicile status, the ~~licensee~~ ~~lease holder~~ shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the ~~licensee~~ ~~lease holder~~ fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

~~If the licensee acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen (18) month period for reestablishing residency, the licensee will automatically be removed from the license, and the license will be revoked if there are no other eligible licensees, and the licensee will not be eligible to reapply unless and until they meet the eligibility requirements in Section 7.8.1.~~

~~No aquaculture license or commercial permit from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term. A licensee making use of an exemption shall not be eligible to be granted a new license or an extension of a currently licensed area for the duration of the allowed term but may be granted a renewal of their existing license, as per Section 7.8.2.~~

The status of all other licensees named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole licensee, then the license shall be revoked.

7.8.3. Renewal of Aquaculture Licenses

The initial term for a new license shall be two (2) years. Provided appropriate effort has been demonstrated, as required in Section 7.12, ~~and the licensee continues to meet the eligibility requirements in Section 7.8.1,~~ the first renewal of a license may be for five (5) years, unless the licensee agrees to a shorter term. Subsequent renewals may be for ten (10) years, unless the licensee agrees to a shorter term. Renewals may be requested and acted upon only during the twenty four (24) months immediately prior to the expiration date of the current license. The renewal period shall begin on the expiration date of the existing license. ~~Renewal applications will be processed in accordance with Section 7.6.1.~~

7.8.4. Limit on Individuals Licensed to Use a Grant

Licenses issued under MGL Chapter 130; Section 57 by the Selectboard of the Town of Wellfleet may be issued to up to four (4) individuals, 18 years of age or older, meeting the requirements set forth Section 7.8.1. The Selectboard will not recognize more than four (4) individuals as licensees on any one license.

Each individual who is licensed to use an area for aquaculture must acknowledge and approve the addition of any person who subsequently applies to be included on that license.

7.8.5. Working of Grants by Non-Licensees

Licensees may employ or use the services of non-licensed individuals to work their Licensed Areas.

All individuals authorized by a Licensee licensed grant holder to work the Grant in the absence of a licensed grant holder must be registered with the Shellfish Department and be approved in writing by all Licensees on the Grant.

Persons authorized to work in a Grant area shall do so only in their individual capacity and shall not act on behalf of or be employed by any Institution that participates in the shellfish industry, unless it is an Institution formed by a licensee for the purposes of facilitating their work on the Grant.

Licensees are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their registration. When more than one licensee has been granted a license for the same acreage, each licensee is responsible only for the actions of persons working the grant.
the employees or otherwise affiliated persons who are under their

~~separate management.~~

7.8.6. Limit on Size of Grant

No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each person named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individuals holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage.

7.8.7. Grants Established Before August 1, 1993

Any license/s issued prior to August 1, 1993, the date on which the Selectboard established the maximum size of seven (7) acres for an aquaculture holding, will remain valid, and will be allowed to continue using the entire Licensed Area until the end of the license term, subject to all other terms and conditions of the License and this regulation, as may be amended from time-to-time. Any renewal of such licenses shall not be subject to the seven acre rule but shall be subject to all other terms and conditions in this regulation, as may be amended from time-to-time. If any such license is surrendered, transferred or revoked, it will be subject to the seven acre rule. ~~according to the existing terms and conditions of said license.~~

7.8.8. Aquaculture Research and Development Projects

7.8.8.1. License for Aquaculture Research and Development

The Selectboard may issue a license to an individual or an institution (including a corporation) which proposes to conduct aquaculture research and development projects if environmentally appropriate, in the best interests of the town, and beneficial to the aquaculture industry.

Commented [GJC3]: Is this still going to be allowed?

7.8.8.2. Initial Term of License

The initial term of a research and/or development license shall not exceed two (2) years. The license may then be renewed for a period of up to eight (8) years, for a total maximum of ten (10) years.

7.8.8.3. Plan of Project

The applicants shall provide a plan of the project including all aspects of the management and operations of the project to the Selectboard, the Shellfish Constable and the Division of Marine Fisheries.

7.8.8.4. Dissemination of Data and Results

All data and subsequent results and analyses of the project shall be made available to the Selectboard, the Shellfish Constable, and the Division of Marine Fisheries at predetermined times to be established in the license.

7.8.8.5. Excess Product Returns to Town

Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development specified in Section

7.8.8.6. License for Aquaculture Research and Development shall be turned over to the Town of Wellfleet annually, for appropriate use by the Shellfish Department.

7.9. Rights of Use Subletting and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter 130:Section 57, Section 63 and Section 67.)

Licensees may transfer the rights or responsibilities assigned to their license to any other Natural Persons individuals, companies or corporations by vote of the Selectboard, and with the express permission of all other

individuals who hold license for the same area, provided that the individual meets the eligibility requirements in Section 7.8.1. (See MGL Chapter 130; [Section 58](#) and Section 7.8.3 Limit on Individuals Licensed to Use a Grant.)

Licensees shall not sublet their Licensed Area to any other person or institution. For purposes of this regulation, a subletting arrangement will be considered to exist if anyone other than the Licensee is permitted to remove product from the Licensed Area and retain it for their own use or the use of another without first turning it over to the Licensee.

7.10. Inheritance of Rights to Use an Aquaculture License

~~Any license issued under the provisions of MGL Chapter 130, Section 57 shall, upon the death of the sole licensee, continue in full force and effect, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. This is for the use and benefit of.~~ Upon the death of a licensee, ~~the~~ immediate family of the deceased licensee ~~may continue to use the license, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer.~~ For purposes of this section the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of said deceased licensee. ~~Such persons shall not be required to meet the eligibility requirements in Section 7.8.1, with the exception of the natural person and commercial shellfish permit requirements. Upon the expiration of the term or the one year period, whichever is later, the license shall be deemed surrendered if it is not transferred to a Natural Person meeting the eligibility requirements in Section 7.8.1.~~

7.11. Liability of the Town

The Town will not be held liable for any damage to a licensed area, or gear, or stock thereon, by reason of any dredging or other harbor improvements undertaken by the Town.

7.12. Evidence of Productivity: Use It or Lose It

7.12.1. Minimum Levels of Investment and Production

There shall be minimum levels of investment and production required in order to retain an area license. These shall be:

a. During the first, second, and third year after the date of issuance of the license a minimum of \$1000 per acre shall be spent on seed and gear for the area and it shall be evident that this effort of improvement has taken place. Any licensed area that is less than one acre shall be prorated.

b. During the fourth year and every year thereafter there shall be a minimum production of an average of \$1000 worth of product per year per acre, or prorated for a portion thereof, from the practice of aquaculture on the licensed area. This shall be demonstrated by the annual grant report, and, if so requested by the Shellfish Constable, copies of transaction receipts or other acceptable documentation. (See MGL Chapter [130, Section 64 Annual fees for license.](#))

~~b.c. These requirements apply to the Licensed Area as a whole and not the individual licensees.~~

7.12.2. Failure to Meet Production Levels

Failure of the licensee/s to meet the specified production level for any three (3) consecutive years may result in the forfeit of the aquaculture license and licensed area, as stated in [MGL Chapter 130; Section 65.](#)

7.12.3. Waiver of Production Requirements

The Constable shall have the right to waive the minimum production requirements when there is evidence that the failure to meet the minimum standard is due to events beyond the control of the license holder.

7.12.4. Extension of Licensed Area (Grant): Investment and Production

In the event of an extension being granted to a presently licensed area, the same level of effort per acre for the newly licensed, abutting section is required as described above in Sections 7.12.1 Minimum Levels of Investment and Production and 7.12.2 Failure to Meet Production Levels.

7.13. Annual Report

7.13.1. Due Date

Licensees shall file annual reports under oath, on their activities in accordance with [MGL Chapter 130; Section 65](#) on or before February 28 of the following year. The report must include any changes or deviation from the original plan filed with the original application or any subsequent application.

7.13.2. Penalization for False Report

Any licensee who submits a false licensed area report in violation of [MGL Chapter 130; Section 65](#) shall be penalized by the revocation of his or her license.

7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. The license holder(s) may appeal the Constable's decision to the Selectboard within 30 days after notification. The Selectboard shall hold a public hearing within 30 calendar days of receipt of said appeal. If no appeal is filed on a timely basis, the license will be forfeited.

7.14. Annual Inspection of Each Grant

The Shellfish Department shall make no less than one visit per year to the site of each licensed area in the company of the license holder.

7.15. Shellfish Seed

7.15.1. Required State Seed Permit

No person shall harvest, plant, transplant, transport, sell or otherwise have in their possession seed shellfish, without first obtaining a state seed permit from the Massachusetts DMF, as required by [MGL Chapter 130, Section 80](#) and [CMR 322, Section 15.04\(b\) 1](#)

7.15.2. Special Circumstances for Taking of Seed

From time to time, with the approval of the DMF and the Selectboard, the Shellfish Department may open up an area for the taking of oyster seed only by aquaculture licensees who hold a seed permit.

7.15.3. Use of Spat Collecting Devices

The use of spat collecting devices such as Chinese hats to catch oyster larvae in areas not licensed for aquaculture, may only be done by commercial permit holders who also hold a seed permit (Section 1, Definitions). During this period, catching oyster larva with such devices is legally considered to be fishing, not farming and the devices are classified as fishing equipment, not growing devices. All devices used in the collection of spat must be tagged with the name of the grant holder and phone number. From time to time, upon receiving a recommendation from the Constable, the Selectboard may vote to limit the areas in which such fishing is allowed or the numbers of Chinese hats or such other devices that may be set out by individuals in these same areas.

7.15.4. Catch Limit for Seed Specified on Permit

No license holder in any one calendar year may take, or cause to be taken, more than twenty-five (25) bushels of seed oysters per acre of licensed area or fraction thereof, pro rated at that rate.

7.15.4. No Seed Harvested by Dragging

No person shall harvest shellfish seed by dragging, except by the licensee within the boundaries of his or her licensed area.

7.16. Undersized Oysters, Quahogs and Surf Clams

7.16.1 Containers Holding Undersized Shellfish Must Be Tagged

All containers that hold market-bound, aquaculture-raised shellfish whose size is less than that allowed by the State when that species is harvested from the wild (petite oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8" and 1", or surf clams whose shell diameter is between 1 1/2" and 5") must be tagged with the words "AQUACULTURE-RAISED" or "FARM RAISED".

7.16.2 Sale Only from Grower to Primary Buyer

The primary sale of undersized, aquaculture-raised (oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8 and 1", and surf clams whose shell diameter is between 1 1/2 and 5") must only be between the aquaculturists or their licensed employee, and a licensed wholesale dealer that is also a "primary buyer of shellfish". If the aquaculturist is also licensed as a primary buyer, they may be considered as the primary buyer of their own product.

7.16.3 Petite Oysters

An aquaculture license holder may harvest and sell farm-raised petite oysters whose greatest length is between 2.5 and 3 inches both in and out of State.

7.16.4 Undersized Quahogs aka "Gems "or "Vongeles"

An aquaculture license holder may harvest and sell farm-raised quahogs whose hinge width is between 7/8" and 1" if:

- a. they are sold only to primary buyers on the inter-state shippers list that distribute them out-of-state. The in-state distribution of aquaculture farm raised quahogs whose hinge width is under 1" is prohibited;
- b. they have documented proof of purchase of seed;

7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams

An aquaculture license holder may harvest and sell farm-raised surf clams whose shell diameter is between 1 1/2 and 5" both in and out of state if:

- a. They have documented proof of purchase of seed.

7.17. Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season:

All such transfers shall be done according to [CMR 500.021](#) and the variance granted to the Town by MDPH/BEH for the years 2018-2020, as authorized on May 1, 2018. A copy of this variance is available to the public on the Town's Shellfish Department [website](#).

7.18. Predator Control

7.18.1. No Lethal Predator Control Measures

Unless specifically authorized by the Director, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, it shall be unlawful to use lethal means to control or exclude predators or other organisms from any area used for aquaculture. Non-lethal enclosures, including, but not limited to, nets, fences, bubble curtains and noise may be used, if approved for a specific site and purpose. Invertebrate predators, pests and fouling organisms may be removed manually from an aquaculture site and disposed of in a lawful manner ([CMR 322, Section 13.7.2](#)).

7.18.2. No Taking of Horseshoe Crabs or Whelks/Conks Without Permit.

Being in possession of horseshoe crabs and whelks (conchs) for any reason requires a State permit. In this regulation, whelk/conch refers to either knobbed whelk (*Busycon carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See [CMR 322 6. 34: Horseshoe Crab Management](#) and [322 CMR Section 6.21: Minimum Size for Conch](#).) As stated in 7.17.1, neither species shall be intentionally killed while practicing predator control.

7.18.3. No Harm to Endangered Species

No person shall maintain a predator control method that will intentionally threaten any endangered species.

7.19. Aquaculture Gear and Equipment

7.19.1. Grants Shall Be Marked

Every licensee shall mark the corners of the area licensed under their license with buoys marked with the license number. From April 1st to November 1st, the corners shall be marked with fluorescent yellow balls, at least twenty (20) inches in circumference. Buoys shall be attached to their anchor by cables, chains or non-floating lines. Numbers shall be marked on said buoys, and shall be at least two (2) inches high and shall be black in color. Temporary buoys shall be required from November 1 through April 1.

7.19.2. Height and Arrangement of Equipment

With the exception of spat collection devices there shall be no equipment or gear made of metal that rises

more than eighteen (18") inches above the grade, and equipment or gear made of plastic (or another equally flexible material) higher than twenty-four (24") inches above the grade, within the boundaries of a licensed area.

7.19.3. Marking of Gear

Every licensee shall clearly and permanently mark any and all trays, boxes, holding cars and all other aquaculture gear with the license number of the license area in a manner that is clearly visible.

7.19.4. Removal of Damaged Gear or Equipment

All equipment or gear which is either damaged, or can no longer used as it was originally designed or intended to be used in the opinion of the Constable, must be removed from a licensed area and either disposed of properly or moved to an appropriate site not located within a protected resource area. This includes, but is not limited to, loose nets, twisted and damaged racks, loose envelopes, grow-out bags and fastening devices.

7.19.5. Overwintering of Equipment on Grants

Racks, rebar or u hooks used to secure nets on a licensed area must either be securely fastened to within two-four inches (2-4") of the bottom or removed by January 15, or before ice prevents removal, whichever comes first, as specified in overwintering agreement. Any licensee who wishes to overwinter racks on their grant must obtain and sign an agreement form available from the Shellfish Department. All gear left on any grant must be tagged as per Section 7.19.3. In parts of the harbor where there may be a risk of silt covering overwintered racks on a licensed area, the Constable may waive the height requirement in 7.19.5 after a visit to the specific site and documenting the adjustment on the Agreement Form.

7.19.6. Fines for Gear Violations.

Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a fifty-dollar ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

7.20. Buffer Zones

There shall be a buffer zone contiguous with the perimeter of any licensed area that is either twenty-five (25) feet wide, or one half the distance to the adjacent licensed area if less than fifty (50) feet, except where two (2) licensed areas abut. It is the responsibility of the license holder/s to keep this area clear of any equipment or gear owned by the licensee/s.

7.21. Exception to Hours of Operation

As required in Section 4.7, no license holder shall harvest, dig, pile, take or carry away any shellfish or shell during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise by any method whatsoever. In the event of impending natural emergencies due to storms, ice or the like, and only after notifying the Shellfish Constable, a licensee may engage in securing stock and gear during this time period. Licensees must notify the Shellfish Constable in advance of their intention to empty seed trays and plant out seed at such times when the extreme tides needed to conduct such activities occur during this time period.

7.22. Hydraulic Harvesting of Shellfish from Grant Areas

The use of hydraulic harvesting gear for the purpose of harvesting shellfish from within the boundaries of a licensed area is permitted under the following conditions and with the following restrictions:

- a) Devices used shall be for the hosed ejection of water under pressure into a shellfish bed;
- b) Pressure pumps shall not exceed five (5) horsepower as rated by the manufacturer;
- c) Noise control devices (i.e. mufflers) shall be in place and in good repair at all times;
- d) Not more than one device may be used on any grant at any time;
- e) Hours of operation shall be between 7:00 a.m. and 1/2 hour before sunset;
- f) The Shellfish Constable shall have the authority to direct an individual involved in the use of such equipment to cease and desist if the Constable feels that there is a problem that necessitates such action. Any individual so ordered shall have the right to appeal the Constable's decision to the Selectboard, at their

first scheduled meeting after the service of such order.

7.23. Extension of Acreage Without Permission and Resolution of Boundary Disputes

Boundary points will be provided by the Town of Wellfleet to all license holders in their license documents, and the Town's boundary points will be considered the only valid points to be used to define each grant's boundaries. No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. In the event that the assigned boundaries of an aquaculture license are called into question, the holders of the grants in dispute may work with the Shellfish Constable to try and resolve the dispute using the town's boundary points and technology, and surveys of shellfish grants on file with the Town. If the parties are unable to resolve the boundary dispute with the Shellfish Constable, the complainant grant holder and/or the Shellfish Constable shall cause the licensed area(s) to be re-surveyed by a registered civil engineer at the complainant grant holder's(s') expense. The professional land survey(s) shall be submitted to the Selectboard, who shall issue a determination on the boundary dispute and, if necessary, adjust the aquaculture license(s) affected thereby accordingly. If a willful violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked by the Selectboard, following a public hearing.

Section 8 Commercial Shellfishing: Dragging and Dredging

8.1. Areas Closed to Dragging/Dredging

No vessel shall operate a drag or dredge north of a line (commonly known as the "no drag line") extending from the seaward end of the Indian Neck Breakwater (see Appendix for coordinates to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Waters.

No vessel shall operate a drag or dredge east of a line extending from the candy pole on Field Point to the boat house on Lieutenant Island (Blackfish Creek No-drag Line), or within one hundred (100) feet of properly marked grants in that area, with the exception that a license holder may drag over his own grant. (See Appendices for maps and coordinates.)

8.2. One Drag/Dredge at a Time

No vessel which operates a drag or dredge shall have more than one drag or dredge in the water in use, at any time.

8.3. Size of Drag or Dredge

No drag or dredge with or without teeth having a width greater than fifty (50) inches shall be used in Wellfleet Harbor. Any drag or dredge used for the purpose of taking oysters, shall have exposed teeth at least one and one half inches in length (1 1/2") as measured from the bottom of the bar, and separated by no more than four (4") inches along the entire exposed portion of the bar which must be in contact with the bottom.

8.4. By-catch Limited to 20%

No vessel shall land more than twenty per cent (20%) of the permitted daily catch of any species of shellfish, as by-catch, other than such species which the gear used is designed to harvest.

8.5. No Hydraulic Harvesting

Hydraulic harvesting of shellfish from vessels is not allowed.

8.6. Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

8.7. Vessels Must be Registered/Documented

Any vessel used for commercial shellfishing in the waters of the Town employing (over the side) a drag, dredge or other gear designed for the taking of shellfish must be registered and/or documented as having Wellfleet as port of origin. The owner of said vessel found in violation of this regulation shall be fined for each violation.

8.8. Landing of Catch

All draggers engaged in shellfishing must land all catch at the Town Pier.

8.9. No Dragging/Dredging Near Licensed Areas

Dragging or dredging within 25 feet of a licensed area is prohibited, except as otherwise noted. (See Section 8.1. Areas Closed to Dragging and Dredging.)

Section 9 Commercial Shellfishing: Diving for Shellfish

9.1. Areas where Diving is Allowed

9.1.1. South of the No-drag Line

A commercial permit holder may harvest shellfish by diving from April 1st to October 1st, in the area south of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Water, south to Eastham/Wellfleet town line.

9.1.2. North of the No-drag Line

When recommended by the Shellfish Department and approved by the Selectboard, divers may harvest shellfish from the waters north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at mean high water, excluding the Herring River. (Area CCB 12).

9.2. No Diving Near Licensed Areas

No person may dive within one hundred (100) feet of any properly marked licensed shellfish area except for license holders diving on their own licensed areas.

9.3. Flag Requirements

All divers and snorkelers shall display a "diver down" flag or other flag when in the water, and must stay within one hundred (100) feet of said flag.

9.4. Daily Diving Limits

Divers with commercial permits are subject to the same daily permit limits as handpickers with commercial permits. Divers with noncommercial permits are subject to the same daily permit limits as handpickers with noncommercial permits.

9.5. No Diving in Channel

No commercial permit holder shall harvest shellfish by diving within the buoyed channel.

Section 10 Eeling

10.1. Eeling Permit Required

No person shall harvest, remove, or catch eels from the waters of the Town without having first obtained an eeling permit from the Town.

10.2. Fykes Not Allowed

No eels shall be taken within the Town by the use of a fyke,

10.3. No Taking of Glass Eels

Taking of glass eels is prohibited.

10.4. Examination of Catch

On the demand of the Shellfish Constables, Police Department or other agent duly authorized by the Selectboard, every permittee shall display in full view his entire catch of eels for examination.

10.5. Catch Limits

Permits for the catching or taking of eels from the waters of the Town shall be issued to domiciled residents for the taking of not more than twenty (20) pounds of eels in any one (1) day.

Section 11 Enforcement .

Enforcement protocols and penalties for specific infractions may be found in other sections of these regulations, including:

5.3.1 Required Icing and Shading of Harvest in Warmer Weather

6.2.1 Required Icing of Product

6.2.3. Commercial Catch Limits

7.7.13.2. Penalization for False Report

7.12.2. Failure to Meet Production Levels

7.13.3. Notification of Failure to Meet Minimal Requirements

7.18.6. Fines for Gear Violation

7.21. Hydraulic Harvesting of Shellfish from Grant Areas

7.22. Extension of Acreage Without Permission

8.7. Vessels Must Be Registered/Documented

11.1. Enforcement Personnel

These regulations shall be enforced by the Wellfleet Shellfish Constable, Deputy Shellfish Constable, The Wellfleet Police Department (including Special Police Officers) or any duly authorized agent of the Selectboard. Failure to adhere to these regulations can result in fine, suspension or loss of permit, or suspension or loss of license, or all three.

11.2. Penalties for Poaching or Theft

A licensee may in tort recover treble damages of any individual who, without his or her consent, unless otherwise authorized by law or lawful regulation to do so, takes shellfish or equipment from the licensed area during his or her term of use.

(See Sections 4.9 Poaching or Disturbance of Grant and MGL Chapter 130; [Section 63](#) and [Section 67](#) .)

11.3. Authority to Revoke Aquaculture License

The Selectboard or the Director of the Division of Marine Fisheries may revoke an area license in accordance with the provisions set forth in MGL Chapter 130, Sections [57](#) & [65](#). In the event that a license is revoked, for reasons other than loss of Domiciled Residence, that individual may not possess seed nor harvest shellfish from any licensed area in the Town.

11.4. Non Criminal Disposition

Enforcement shall include without limitation the noncriminal disposition procedure provided in [MGL Chapter 40: Section 21D](#)

11.5. Penalty Fees

The penalties for violation of any of these regulations shall be assigned by the Shellfish Department and shall consist of a fine of \$50 for the first offense, a fine of \$150 for the second offense, and a fine of \$300 for the third offense. In the event of a fourth offense within a period of 5 years, the license will be subject to revocation. there will be an automatic permit suspension.

11.6. Duration of Shellfishing Permit Suspensions

Holders of Wellfleet shellfish permits shall have their permit suspended by the Selectboard for a period of not

less than three (3) days nor more than fourteen (14) days for the first offense, suspended for not less than thirty

(30) days nor more than sixty (60) days for the second offense, and suspended not less than ninety (90) days for the third offense. In any instance where the permit was due to expire during the proposed suspension period, the suspension may be invoked during the next calendar year. Additionally, the beginning date of the suspension shall be determined by the Selectboard.

11.7. Revocation of Shellfishing Permits

The Selectboard reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

11.8. Acceptance of Suspension Without Request for Appeal

The enforcing officer may offer the offender of any of these regulations the opportunity to immediately accept the suspension of his or her permit for the minimum specified time to begin the following calendar day. In this case, the offender must surrender his or her permit and agree in writing to the suspension. Acceptance or rejection of this offer will in no way affect the disposition of the fine.

11.9. Disposition of Unlawful Catch

The enforcing officer may, at his/her discretion, seize and dispose of any unlawful catch as per [MGL Chapter 130: Section 12](#).

11.10. Prior Terms Revoked

All regulations and specifications made prior to the date of acceptance of these regulations are hereby revoked; with the exception that nothing in these regulations shall be deemed to affect the validity, conditions, or terms of any license granted under the corresponding previous regulations of the Town until the expiration of such license.

11.11. Severability Clause

If any provision of these regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these regulations shall continue in force and effect.

APPENDIX A:
 DMF - Designated Shellfish Growing Areas / Wellfleet

Massachusetts Division of Marine Fisheries - Designated Shellfish Growing Area

Shellfish Area Classification			
	Approved		Conditionally Restricted Prohibited
	Conditionally Approved		Restricted Management Close

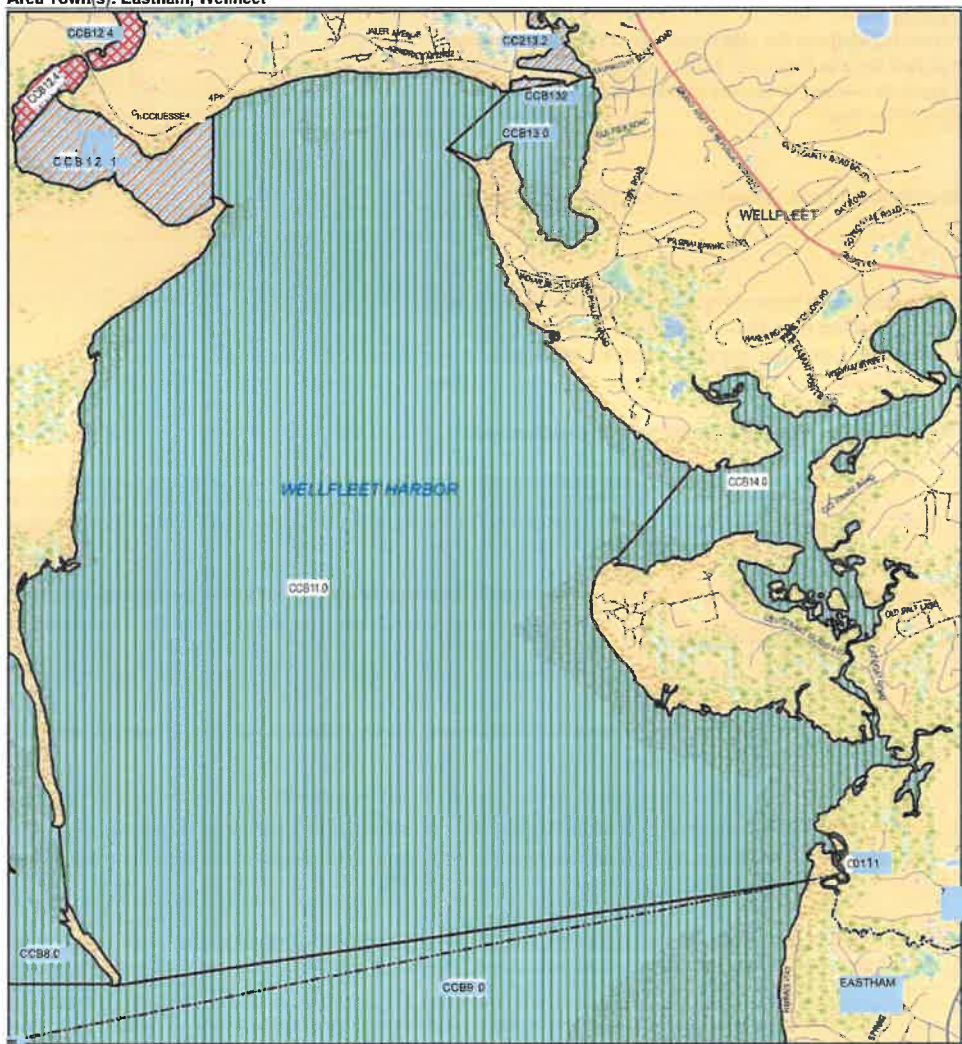
Map Features Legend	
	MUNICIPAL BOUNDARY
	Crabby Bog
	R/Sandbar
	Soft Marsh
	Ice Tidal Flat
	Marsh/Bog



Produced: Sep. 10, 2009

Growing Area Code: CCB11
Area Name: WELLFLEET HARBOR
Area Town(s): Eastham, Wellfleet

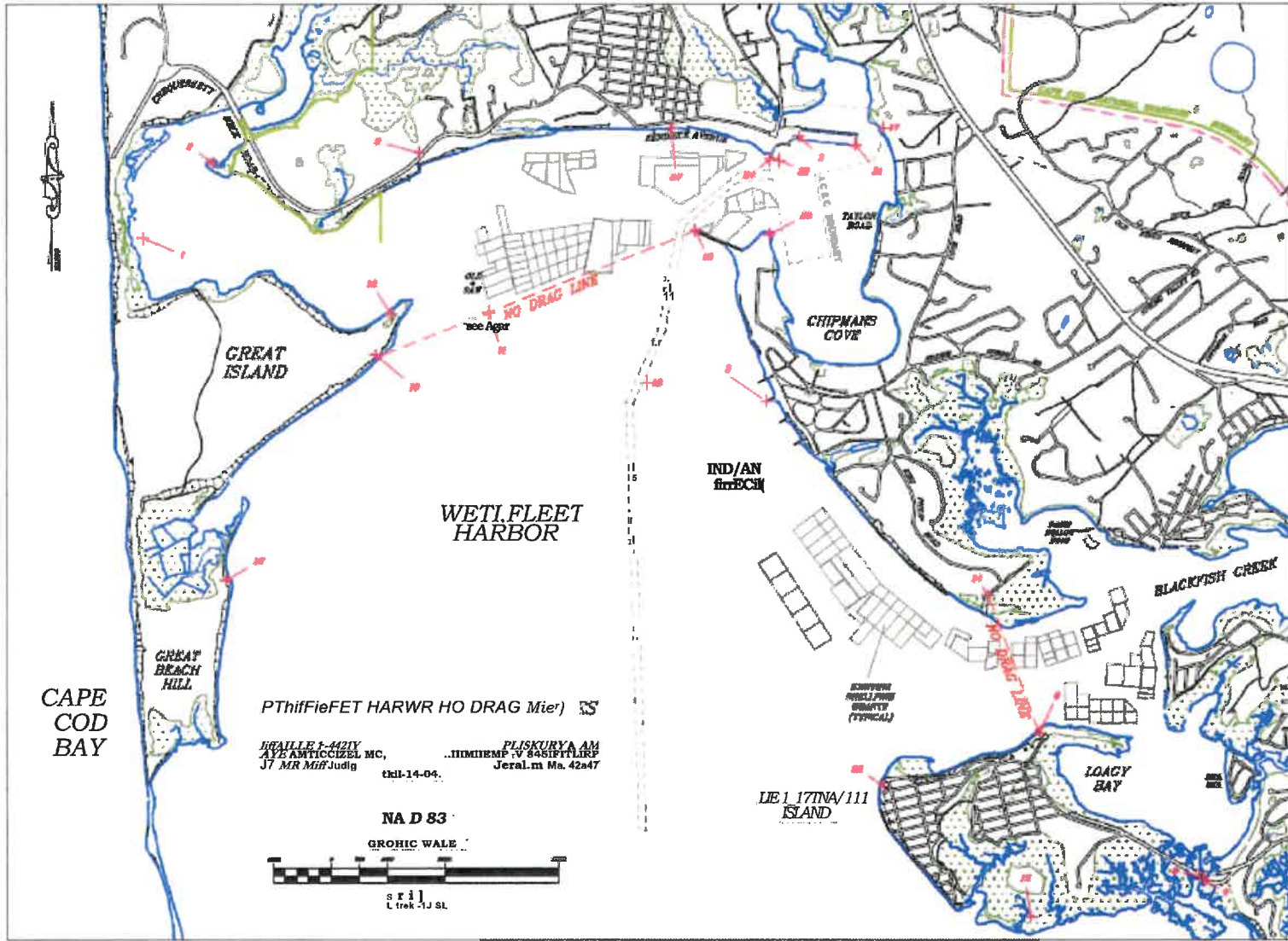
0.1



This product is for planning and education purposes only. It is not to be used by itself for legal boundary definition or regulatory interpretation.

APPENDIX B Latitude and Longitude Coordinates

#	Point description	Latitude (N)	Longitude (W)
1	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92553333	-70.07081667
2	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92911667	-70.06623333
3	Eastern high point of the Town Boat Ramp	41.92993333	-70.02850000
4	Eastham/Wellfleet boundary marker on Billingsgate Island	41.87195000	-70.06666667
5	End of the first groin south of the Burton Baker Landing	41.91717000	-70.03151667
6	Lieutenant's Island Bridge	41.89378333	-70.03091400
7	Lieutenant's Island Bridge	41.89361667	-70.00333333
8	Lieutenant's Island Boathouse	41.90090000	-70.01371667
9	Main flagpole at the Chequessett Neck Country Club	41.92943333	-70.05291667
10	Navigational beacon (#14) at the seaward end of Indian Neck Breakwater	41.92546667	-70.03528333
11	Near the rocks known as Old Saw	41.92168333	-70.04865000
12	Official boundary marker in Hatches Creek	41.88111667	-70.00445000
13	Osprey nest pole on the southern end of Lieutenant's Island	41.89198333	-70.01451667
14	Parking lot at Fox Island, marked with a striped pole	41.90753333	-70.01686667
15	Point in Middle Meadow, marked with a striped pole	41.90891667	-70.06583333
16	Point near the #12 channel marker	41.91818333	-70.03861667
17	Point on the shore on the other side of the channel (across from Shirttail Point), marked with a striped pole	41.93028333	-70.02303333
18	Point on the tip of Great Island, marked with a striped pole (for Herring River)	41.92168333	-70.05495000
19	Point on the tip of Great Island, marked with a striped pole (for No Drag Line)	41.91971667	-70.05596667
20	Point on the tip of Indian Neck, marked with a striped pole	41.92518333	-70.03053333
21	Southeastern tip of Shirttail Point	41.92946667	-70.02488333
22	Southeastern tip of the L pier	41.92878333	-70.02976667
23	Southern tip of Jeremy Point	41.87485000	-70.06363333
24	Southwestern tip of the L Pier	41.92881667	-70.03038333
25	Uncle Tim's Bridge	41.93751667	-70.02835000
26	Uncle Tim's Bridge	41.93693333	-70.02793333
27	US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach	41.93045000	-70.03671667
28	Western edge of the house at the western tip of Lieutenant's Island	41.89838333	-70.02375000



APPENDIX D:

OVERWINTERING AGREEMENT

agree to remove all metal racks, rebar or u hooks used to secure nets, or anything constructed of metal that is not securely fastened to within 2-4" to the bottom by January 15th, or before ice prevents removal, whichever comes first.

If I decide to store racks on my grant(s) over the winter, I agree to the following conditions:

1. All racks shall be tagged with the owner's name and grant number.
2. An accurate number of racks being left on the grant will be provided on this agreement form:
 - All racks with oysters on them are pumped down to within 2-4" of the bottom.
 - All racks without oysters on them are pumped down to be flush with the bottom.
 - I attest that before the threat of ice, I will be able to remove in _____ [e.g. two tides, two days], no matter what the tide height, all racks that will NOT be overwintered but are remaining in use on grant after January 15. These racks are not pushed down. I understand that it is up to Constable's discretion to allow this, and I will work with Shellfish Department to demonstrate my ability to meet this deadline.
3. Any racks that are damaged during the winter must be cleaned up by March 1st or when the departure of ice allows, whichever comes first. This is also addressed in Section 7.19.4.
4. I understand that I am solely liable for any damage my equipment may cause to other aquaculturists or the public.
5. In case of emergency, contact _____ at _____
6. Failure to adhere to these conditions can result in suspension or revocation of my grant license, in accordance with Section 7.19.6. and Section 11 of the Wellfleet Shellfishing Policy and Regulations.

Grant license(s) #: _____

Number of racks to be overwintered with product (2-4" off bottom):

Number of racks to be overwintered without product (flush with bottom):

Number of racks currently on grant, not pushed down, but that will be removed before ice:

Signature _____ Date: _____

Town of Wellfleet
Shellfishing Policy and Regulations
Last Amended 04/09/13, 06/04/13, 7/16/13, and 01/28/14, 06/10/14, 8/05/14, 09/16/14, 03/24/15,
05/12/15, 08/11/15, 09/08/15, 12/08/15, 01/26/16, 4/12/16, 9/13/16, 12/6/16, 3/15/17, 8/22/17, 5/22/18,
1/15/19, 05/28/19, 07/23/19, 09/24/19, 01/14/2020, 07/28/2020, 09/08/2020, 04/27/2021, 06/22/2021,
09/14/2021, 03/08/2022, 06/28/2022, 12/20/2022 (changes are highlighted)

All References to Massachusetts General Law (MGL) and the Code of Massachusetts Regulations
(CMR) are valid as of 2014

TABLE OF CONTENTS

Section 1 Definitions

Section 2 Shellfishing Policy for the Town of Wellfleet / Purpose of Regulations

Section 3 Informing the Public of Information and Meetings Concerning the Fishery

- 3.1 Posting Policy and Regulations
- 3.2 Posting of Hearings on Shellfish Matters Held by the Selectboard
- 3.3 Open Meeting Law

Section 4 General Regulations (Applying to Noncommercial, Commercial and Aquaculture)

- 4.1 Areas Where Commercial and Noncommercial Shellfishing May Take Place
- 4.2 Boundary and Area Locations
- 4.3 Landing of Shellfish
 - 4.3.1 Landing of Shellfish
- 4.4 Daily Limit
- 4.5 No Landings in Excess of Daily Limit
- 4.6 Landing Shellfish Before Shucking
- 4.7 Daily Time Limits
- 4.8 No Shellfishing Below 28 Degrees Fahrenheit
- 4.9 Poaching
- 4.10 Disturbance of Grant by Other Than Licensee
- 4.11 License and/or Permit Required
- 4.12 Inspection on Demand
- 4.13 Display of Permit/License
- 4.14 Possession of Seed Restricted
- 4.15 Methods of Harvest
- 4.16 Detrimental Practices of Harvesting Prohibited
- 4.17 Handpicking or Scratching-Only Areas
- 4.18 Transplanting
 - 4.18.1 Outside Wellfleet Waters
 - 4.18.2 Into Wellfleet Waters
 - 4.18.3 Harvesting Seed from Wild Generally Not Allowed
- 4.19 Areas Restricted to Use by Permit Class
- 4.20 Annual Opening and Closing of Scallop Season
- 4.21 Motorized Vehicles on Beaches

Section 5 Noncommercial Shellfishing

- 5.1 Seasonal Restrictions: Open and Closed Areas
- 5.2 Permits:
 - 5.2.1 Eligibility for Noncommercial Permits

Shellfish
Department
d
DMF
edits/
Comments

5.2.2 Noncommercial Permit Fee Schedule

5.3 Noncommercial Shellfishing Regulations:

- 5.3.1 Required Icing and Shading of Harvest in Warmer Weather
- 5.3.2 Cannot Harvest for Commerce
- 5.3.3 Noncommercial Catch Limits

Section 6 Commercial Shellfishing

6.1 Commercial Permits

- 6.1.1 Eligibility for Commercial Permits
- 6.1.2 Domicile Requirement and Exception
- 6.1.3 Commercial Permit Requirements
- 6.1.4 Commercial Permit Fee Schedule
- 6.1.5 Hardship Exemption

6.2 Commercial Shellfish Regulations

- 6.2.1 Required Icing of Product
- 6.2.2 Harvest Must Be Tagged
- 6.2.3 Minors Under fourteen (14) Without Permit
- 6.2.4 Commercial Catch Limits
 - 6.2.4.1 Bay Scallops
 - 6.2.4.2 Mussels
 - 6.2.4.3 Oysters
 - 6.2.4.4 Quahogs
 - 6.2.4.5 Razor Clams
 - 6.2.4.6 Sea Worms
 - 6.2.4.7 Soft Shell Clams
 - 6.2.4.8 Blood Ark Clam or Ponderous Ark Clam

6.3 Daily Area Catch Limits

6.4 Seasonal and Other Restrictions: Open and Closed Areas

- 6.4.1 Chipman's Cove
- 6.4.2 Duck Creek
- 6.4.3 Herring River
- 6.4.4 West Side
- 6.4.5 Egg Island
- 6.4.6 Blackfish Creek

6.5 Use of Motorized Vehicles for Shellfishing

- 6.5.1 Motorized Vehicles on Beaches
- 6.5.2 Terms and Conditions for Use of Motorized Vehicles
- 6.5.3 Speed Limit on Beaches and Intertidal Areas
- 6.5.4 Allowed Line of Access for Vehicles

Section 7 Shellfish Aquaculture

7.1 Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Subdivided by the Town

7.2 Previous Established Grants That Become Available

7.3 License Fee

7.4 Location of Areas Licensed for Aquaculture (Grants)

7.5 Conditions for Use of Area Licensed for Aquaculture

7.5.1 Access to Areas Licensed for Aquaculture is Required

7.5.1.1 Vehicle Access to Grants

7.5.1.2 Non-vehicular Access to Grants

7.6 Process for Approval of Aquaculture Licenses

7.6.1 Application Procedure

7.7 Moratorium on Aquaculture Licenses

7.8 Issuance of Licenses for Aquaculture

7.8.1 Eligibility Requirements

- 7.8.2 Domicile Requirement and Exception
- 7.8.3 Renewal of Aquaculture Licenses
- 7.8.4 Limit on Individuals Licensed to Use a Grant
- 7.8.5 Working of Grants by Non-Licensees
- 7.8.6 Limit on Size of Grant
- 7.8.7 Grants Established Before Aug 1, 1993
- 7.8.8 Aquaculture Research and Development Projects
 - 7.8.8.1 License for Aquaculture Research and Development
 - 7.8.8.2 Initial Terms of License
 - 7.8.8.3 Plan of Project
 - 7.8.8.4 Dissemination of Data and Results
 - 7.8.8.5 Excess Product Returns to Town
- 7.9 Rights of Use and Transfer
- 7.10 Inheritance of Rights to Use an Aquaculture License (Grant)
- 7.11 Liability of the Town
- 7.12 Evidence of Productivity: Use it or Lose It
 - 7.12.1 Minimum Levels of Investment and Production
 - 7.12.2 Failure to Meet Production Levels
 - 7.12.3 Waiver of Production Requirements
 - 7.12.4 Extension of Licensed Area (Grant): Investment and Production
- 7.13 Annual Report
 - 7.13.1 Due Date
 - 7.13.2 Penalization for False Report
 - 7.13.3 Notification of Failure to Meet Minimum Requirement
- 7.14 Annual Inspection of Each Grant
- 7.15 Shellfish Seed
 - 7.15.1 Required State Seed Permit
 - 7.15.2 Special Circumstances for Taking of Seed
 - 7.15.3 Use of Spat Collecting Devices
 - 7.15.4 Catch Limit for Seed Specified of Permit
 - 7.15.5 No Seed Harvested by Dragging
- 7.16. Undersized Oysters, Quahogs and Surf Clams
 - 7.16.1 Containers Holding Undersized Shellfish Must Be Tagged
 - 7.16.2 Sale Only from Grower to Primary Buyer
 - 7.16.3 Petite Oysters
 - 7.16.4 Undersized Quahogs aka "Gems "or "Vongees"
 - 7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams
- 7.17 Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season
- 7.18 Predator Control
 - 7.18.1 No Lethal Predator Control Measures
 - 7.18.2 No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit
 - 7.18.3 No Harm to Endangered Species
- 7.19 Aquaculture Gear and Equipment
 - 7.19.1 Grants Shall Be Marked
 - 7.19.2 Height and Arrangement of Equipment
 - 7.19.3 Marking of Gear
 - 7.19.4 Removal of Damaged Gear or Equipment
 - 7.19.5 Overwintering of Equipment on Grants
 - 7.19.6 Fines for Gear Violation
- 7.20 Buffer Zones
- 7.21 Exception to Hours of Operation
- 7.22 Hydraulic Harvesting of Shellfish from Grant Areas
- 7.23 Extension of Acreage Without Permission and Resolution of Boundary Disputes

Section 8 Commercial Shellfishing: Dragging and Dredging

- 8.1 Areas Closed to Dragging/Dredging
- 8.2 One Drag/Dredge at a Time
- 8.3 Size of Drag / Dredge
- 8.4 By-Catch Limited to 20%
- 8.5 No Hydraulic Harvesting
- 8.6 Commercial Permit Required for Dragging/Dredging
- 8.7 Vessels Must be Registered/Documented
- 8.8 Landing of Catch
- 8.9 No Dragging / Dredging Near Licensed Areas

Section 9 Commercial Shellfishing: Diving for Shellfish

- 9.1 Areas Where Diving is Allowed
 - 9.1.1 South of the No-Drag Line
 - 9.1.2 North of the No-Drag Line
- 9.2 No Diving Near Licensed Areas
- 9.3 Flag Requirements
- 9.4 Daily Diving Limits
- 9.5 No Diving in Channel

Section 10 Eeling

- 10.1 Eeling Permit Required
- 10.2 Fykes Not Allowed
- 10.3 No Taking of Glass Eels
- 10.4 Examination of Catch
- 10.5 Catch Limits

Section 11 Enforcement

- 11.1 Enforcement Personnel
- 11.2 Penalties for Poaching or Theft
- 11.3 Authority to Revoke Aquaculture License
- 11.4 Non-Criminal Disposition
- 11.5 Penalty Fees
- 11.6 Duration of Shellfishing Permit Suspensions
- 11.7 Revocation of Shellfishing Permits
- 11.8 Acceptance of Suspension Without Request for Appeal
- 11.9 Disposition of Unlawful Catch
- 11.10 Prior Terms Revoked
- 11.11 Severability Clause

Appendix A Area Maps

Appendix B GPS Coordinates

Appendix C Wellfleet Harbor/No Drag Lines

Section 1. Definitions

*Unless otherwise identified, all cited Sections refer to sections of the Town of Wellfleet Shellfishing Policy and Regulations. The terms listed in this Section, when used in the Town's **Shellfishing Policy and Regulations**, shall have the meanings that follow:*

Applicant – a person applying for a license or permit, for renewal of a license or permit or the license or permit.

Formatted: Highlight

Commented [S1]: Suggest deleting "and permit" here as shellfishing permits are not transferrable.

Formatted: Highlight

Formatted: Font: Not Bold

Annual Report - A report that must be submitted to the Town every year before February 28th which includes the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from a licensed aquaculture area, and an estimate of the total number of each kind of shellfish at the time of such

report, planted or growing thereon ([MGL Chapter 130: Section 65](#)).

Aquaculture - The farming of aquatic marine organism including, but not limited to fish, mollusks, crustaceans, echinoderms and plants. Farming implies some sort of intervention in the rearing process to enhance production including, but not limited to controlled propagation, feeding and protection from predators.

Aquaculture License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land, under coastal waters (1) to plant and grow shellfish using in-bottom or off-bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130: Section 57](#)).

Aquaculture Licensed Area (Grant) - See **Licensed Area**.

Aquaculture Permit (See Permit)

Basket Rake - A hand-held implement used for the harvesting of shellfish, which is similar to but longer than a standard clam hoe, which has a basket and no more than twenty (20) teeth, is no wider than 12 inches at its widest part, does not have a T handle, and is only to be used on foot.

Blood Ark Clam and Ponderous Ark Clam - Bivalves of the species *Anadara ovalis* and *Noetia ponderosa* are some of the few marine mollusks having red blood, due to the presence of hemoglobin. Their shells grow to a length of approximately two or three inches and are fairly thick and sturdy. Each of the two valves has approximately 35 radiating ribs. The complete bivalve, when viewed from the end, is heart-shaped.

Selectboard - The Wellfleet Selectboard (BOS); Wellfleet's elected executive Board, designated by the State ([MGL Chapter 30](#)) as the regulatory Board that has jurisdiction over shellfishing in the Town.

Bull Rake - A T-handled hand-held and hauled implement used for the harvesting of shellfish. It shall be 12 inches or wider and have a fixed basket and teeth.

Bushel - U.S. dry measure; 2150.42 cubic inches, or 32 quarts.

By-Catch - The incidental capture of non-target species.

Captain - The master or individual in charge of a vessel.

Channel - The area marked by U.S. Coast Guard navigation buoys indicating a navigable way of passage.

Chinese Hats - Cones or disks of plastic, usually in stacks, coated with mortar with high lime content, used to collect oyster spat.

Clam Rake - A hand tool of typically eight (8) tines or less, used to manually bring clams to the surface of the substrate.

CMR - Code of Massachusetts Regulations.

Commercial Harvest— The harvest of shellfish for sale, trade, or other consideration.

Container - Any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from other shellfish after harvest, on a lease, or from the entire load or shipment.

Constable (Warden) - The municipal employee, appointed by the Selectboard, who is in charge of administering the management of the fishery; the head of the Shellfish Department of the Town.

(To) Cull - to remove dead, dying, undersized or otherwise unsuitable organisms (also, the organism which is removed).

(To) Dig and Take - (archaic); See **(To) Harvest**

(To) Dive - The use of SCUBA, surface supplied air, or snorkel to harvest shellfish.

DMF - Division of Marine Fisheries.

Documented Vessels - Commercial or recreational vessels registered through the federal system which have a certificate of documentation, recognized both nationally and internationally, as well as an Official Number permanently affixed to the hull.

Domiciled Resident - See **Resident**

Drag / Dredge - A heavy metal frame with an attached bag, which is towed or dragged along the seafloor to catch bottom dwelling shellfish. Some have metal teeth along the base of the frame that act like a rake.

Extension - An extension of a licensed area abutting a pre-existing area licensed by the same individual.

Fyke - A long bag-shaped fishing net held open by hoops that act as a cul-de-sac funnel.

Gems (Vongoles) - Quahogs between 7/8 and 1 inch wide (thickness of the hard clam across both valves at the hinge).

Glass Eel - Eel in its transparent, post-larval stage.

Grant - See **Aquaculture License/Licensed Area**

(To) Handpick - The transfer of shellfish to a container from the substrate by hand or with a hand-held tool of eight (8) tines or less.

(To) Harvest - To gather shellfish or other marine organisms in a container of any sort after sorting and separating them from what has initially been taken from the habitat.

Harvesting Area - An area approved for the taking of shellfish.

Handpicker - An individual who practices handpicking.

Hinge Width - The distance between the convex apex of the right shell and the convex apex of the left shell.

Institution - a corporation, association, organization, trust or other entity established by law and that is not a natural person

Formatted: Highlight

Intertidal - The land or area between the mean high and the mean low watermarks.
re

Jerk Rake - modified bull rake employing a harness.

(To) Land - To bring harvested shellfish by vessel to the Town Pier and to tie up before proceeding elsewhere; to bring harvested shellfish ashore above the mean high water line.

License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land under coastal waters (1) to plant and grow shellfish in bottom or off bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130](#), Sections 57 - 68).

Licensed Area (Grant) - a designated bottom area, certified by The Division of Marine Fisheries (DMF) and licensed by a vote of the Selectboard, on which the licensee may plant, grow and harvest shellfish (MGL Chapter 130; Sections 57 & 68).

License Holder - A natural person or group of natural persons, or a firm or corporation holding a license issued by the Selectboard under the provisions of MGL Chapter 130, and this Regulation.

Formatted: Highlight

Licensee - See License Holder

Long Raking - method of harvesting shellfish using a long handled bull or basket rake from a boat.

MGL - Massachusetts General Law.

Mean High Water (MHW) / Tide - The average elevation of all high waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of high tide.

Mean Low Water (MLW) / Tide - The average height of the low waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of low tide.

Mussel - A marine mollusk of the species *Mytilus edulis*.

Oyster - A marine mollusk of the species *Crassostrea virginica*.

Permit - A certificate granting permission to engage in specific activities issued by the appropriate authority.

Aquaculture / Seed Permit, issued by DMF

State Aquaculture Permit: "seed" or propagation permit as defined in MGL, [Chapter 130: Sections 80 and 69](#) and [CMR 322, Section 15.04 \(b\)\(1\)](#).

Authorizes the possession and growing of seed shellfish from an approved source. May be endorsed for the use of upwellers or similar nursery systems to enlarge hatchery seed for planting, but not for resale. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, tagging and record keeping is approved by the Director.

Commercial Shellfishing Permit (Section 6.1), issued by BOS.

Eeling Permit (Section 10), issued by BOS.

Noncommercial, Non-resident, Non-taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

Noncommercial Resident or Taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

— Propagation Permit ([Aquaculture Management - Marine Fisheries propagation permit](#)) (Section 7.15.2), issued by DMF.

Shellfish and Seaworm Permit ([CMR 322, Section 7.01 \(2\)\(g\)](#)), issued by DMF:

Authorizes only the named individual to harvest, possess and land shellfish and seaworms for

8/30/2023--MADMF COMMENT:
redundant to give natural person as a
definition of natural person MADMF
suggests: "...shall mean a HUMAN
BEING only."

commercial purposes, and may be endorsed for the shucking of bay scallops.

Shellfish Transaction Card ([CMR 322, Section 7.01 \(2\) \(k\)](#)), issued by DMF:

Authorizes only the named individual holding a commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

State Commercial [Permit \(Commercial Fishing Permit / Shellfish Permit\)](#), issued by DMF:

Allows an individual to take, land and sell (to a licensed dealer) shellfish and seaworms. A shellfish ID card, from the Division, and town permit are also required.

Person, Natural Person or Individual – shall mean human being. For purposes of this Regulation, any reference to person, natural person or individual shall mean a natural person only and shall not include institutions as defined herein.

Formatted: Highlight

Petite Oysters — Aquaculturally reared oysters, whose height (from hinge to shell margin) is between 2.5 and 3 inches.

Planted Areas - Areas in which the Shellfish Department has planted shellfish for purposes of propagation or transplanting.

Poaching — The harvesting of shellfish, illegally, from any area.

Quahog - A marine mollusk of the species *Mercenaria mercenaria*, commonly called the hardshelled clam.

Quart - 67.201 cubic inches (U.S. Dry Measure).

Raking - Gathering oysters and/or other materials using a rake and then transferring this accumulation to a container, vehicle or vessel.

(To) Relay - See Transplant

Registered Vessels - Motorized vessels of any size, including those that don't primarily depend on mechanical propulsion, registered with the Massachusetts Office of Environmental Law Enforcement at the Registry and Titling Bureau.

Resident - A [declared person who is domiciled in the Town of Wellfleet for the purpose of establishing legal residency of the Town of Wellfleet](#). Written proof that Wellfleet is the [applicant's domicile and as well as the legal residence of the applicant](#) shall be required to the satisfaction of the Shellfish Constable and Selectboard. Domicile will be established after one year of residency in Wellfleet is demonstrated. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data, ~~or~~ passport, [utility bills](#), or any combination thereof.

Scallop - A marine mollusk of the species *Aequipecten irradians*, commonly called Cape scallop or bay

scallop. **(To) Scratch** - To harvest clams with the aid of a clam rake.

Seed - Quahogs, with the exception of gems, less than (1) one inch wide, across both valves at the hinge, soft-shell clams less than (2) two inches in length (the largest measurement, 90 degrees from the hinge to outer margin of the shell); oysters, with the exception of petites, less than (3) three inches in height (from hinge to outer margins of the shell), and scallops without a defined annual growth ring.

Seed Permit - See Permit.

Shellfish Constable - See Constable

Softshell Clam (Steamer) - A softshell clam of species *Mya arenaria*.

Shellfish - Softshell clams, whelks, mussels, oysters, snails, quahogs, razor clams (razor fish), bay scallops, sea

8/30/2023--MADMF COMMENT: Will the addition of residential cause any problems with commercially owned property with residential apartments on it? - you may not need it given our

scallops, sea clams, and blood arks.

Spat - An oyster or similar bivalve mollusk in the larval stage, especially when it has settled on and attached itself to a surface on which it can then proceed to grow.

Subtidal - The body of water or area below that of mean low water for spring tides; habitats rarely, if ever, completely uncovered by low tides.

Surf Clam (Sea Clam) - A clam of species *Spisula solidissima*.

(To) Take - To harvest.

Taxpayer — An individual or corporation who owns residential land in Wellfleet for which they are taxed by the Town. For properties owned by trusts, life estates or other instruments that distinguish between current and future ownership interests, only those with a present right to occupy the property shall be considered owners. In the case of a trust, it shall be the trustees. Employees, officers, directors, and shareholders of corporations, limited liability companies or other similar institutions shall not be considered taxpayers.

Formatted: Highlight

Formatted: Highlight

Tongs - A hand-held and hauled implement used for the harvesting of oysters. They have a scissor mechanism to close two baskets upon themselves.

Town - The town of Wellfleet.

Transaction Card - See Permits; Shellfish Transaction Card.

(To) Transfer - To grant the right to use a previously established, licensed area, as allowed by MGL Chapter 130: Sections 57 and 58, and approved by a vote of the Selectboard.

Transferee - Individual or entity Person to whom the right to use a previously established, licensed area for aquaculture has been granted by a vote of the Selectboard.

Formatted: Highlight

(To) Transplant - The moving of shellfish from one area to another.

Undersized Oysters, Quahogs and Surf Clams - Oysters whose greatest length is between 2.5 and 3"; quahogs whose hinge width is between 7/8" and 1"; surf clams whose shell diameter is between 1 1/2" and 5".

Warden - See Constable

Waters - Coastal waters, tidal flats, tidal creeks, and all salt or fresh waters within the boundaries of the Town of Wellfleet.

Week - The calendar week commencing at 00:01 A.M. Sunday and ending at 12:00 Midnight Saturday.

Wet Storage - The temporary placement of legally harvested shellfish from an area open to shellfishing onto an area licensed for aquaculture, for the purpose of maintaining their health in an optimal environment or for the purpose of allowing them to purge themselves of sand and other inedible matter, before transporting them to market.

Section 2. Shellfishing Policy for the Town of Wellfleet

Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure

equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including

[Massachusetts General Law Chapter 130, Code of Massachusetts Regulations 322](#), and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

To implement this policy, the Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing.

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Section 3. Informing the Public of Information and Meetings Concerning the Fishery

3.1. Posting of Shellfishing Policy and Regulations

Current copies of this Shellfishing Policy and these Regulations, and any amendments thereto, will be available in the Selectboard's office, the office of the Town Clerk, the Shellfish Department office, and the Wellfleet Public Library. They shall be also posted at the Wellfleet and South Wellfleet Post Offices ([MGL Chapter 130: Section 52](#)), as well as on the official website of the Town.

3.2. Posting of Hearings about Aquaculture Licenses Held by the Selectboard

As required by [MGL Chapter 130: Section 60](#), all hearings held by the Selectboard for the granting, transferring or renewal of aquaculture licenses must be posted in three public places, and advertised in a local newspaper at least ten (10) days before that hearing is to take place, as well as the Town's web site as soon as the date of the hearing has been determined by the Board. The posting must provide the name of the applicant(s), their residence, and the date of the filing of the application, and the specific location and description of the acreage to be licensed.

3.3. Open Meeting Law

Compliance with [MGL Chapter 30A: Sections 18-25 \(Effective July 1, 2010\)](#) (the Open Meeting Law) and [940 CMR 29.00](#) is required for all municipal meetings, above and beyond the requirements of Sections 3.1 and 3.2.

Section 4. General Regulations (Applying to the Noncommercial and Commercial Shellfisheries As Well As Shellfish Aquaculture)

4.1. Areas Where Commercial and Noncommercial Shellfishing May Take Place

(See also Appendixes and Section 8.1 Areas Closed to Dragging and Dredging)

Commercial-only area: north of a line from the seaward end of the breakwater to the easternmost tip of Great Island (with the exception of Chipman's Cove) marked by a red and white striped pole. This area is subject to seasonal restrictions.

Noncommercial-only area: (Area 2, in CCB 11; see Section 4.2) off Indian Neck, south from the Breakwater to the second groin. This area is subject to seasonal restrictions (see Section 5.1).

Commercial and Noncommercial area: includes all the rest of the harbor except buoyed grants. This area is subject to seasonal restrictions

4.2. Area and Boundary Locations (See Appendix A and C for Area Maps and Appendix B for Specific GPS Locations)

4.2.1. Areas

Area 1: All marine waters and intertidal areas north of the No-drag Line, excluding Chipman's Cove.

Area 2: (Within CCB 11.) All marine waters and intertidal areas landward of the area enclosed by the #14 navigational beacon at the seaward end of Indian Neck breakwater to a point near the #12 channel marker and thence inshore to the end of the first groin south of the Burton Baker Landing.

Area 3: All marine waters and intertidal areas in the waters of the Town, excluding Areas 1 and 2.

4.2.2. Boundaries

Blackfish Creek: (Within CCB 14.) All marine waters and intertidal areas enclosed east of a boundary from the parking lot at Fox Island, marked with a striped pole, to the western edge of the house at the northwestern tip of Lieutenant's Island, and north of the Lieutenant's Island Bridge.

Chipman's Cove (within CCB 13): All marine waters and intertidal areas enclosed south of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, and east of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

Duck Creek (within CCB 13): All marine waters and intertidal areas enclosed north of a boundary from the southeastern tip of Shirrtail Point to a point on the shore on the other side of the channel, marked with a striped pole, east of Commercial Street, and south of Uncle Tim's Bridge.

East Side (within CCB 11): From the breakwater at Indian Neck to the Eastham Town Line.

Eastham / Wellfleet Town Line: (Southernmost boundary of CCB 11.) For the purposes of shellfishing, the boundary runs down the middle of Hatches Creek, and westerly from the official boundary marker in Hatches Creek to the Eastham/Wellfleet boundary marker on Billingsgate Island and thence in the same direction to State waters.

Egg Island/Egg Island Channel (within CCB11): Channel and tidal flats south of Power's Landing and Keller's Corner, and north of the block grants.

Herring River (within CCB 12): All marine waters and intertidal areas enclosed west of a boundary from the main flagpole at the Chequessett Neck Club to a point on the tip of Great Island, marked with a striped (candy cane) pole, and south of a boundary determined by the Massachusetts Division of Marine Fisheries, marked with poles on either side of the river.

Inside L Pier (within CCB 13): All marine waters and intertidal area enclosed by the L Pier, and west of a boundary from the southeastern tip of the L Pier to the eastern high point of the Town Boat Ramp.

Main Harbor (within CCB 11): All marine waters and intertidal areas within Wellfleet Harbor, excluding Blackfish Creek, Chipman's Cove, Duck Creek, Herring River, Mayo Beach and South Lieutenant's Island.

Mayo Beach (within CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the main flagpole at the Chequessett Neck Yacht Club to a point on the tip of Great Island, marked with a striped pole, north of the No Drag Line, and west of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

South Lieutenant's Island (CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the osprey nest pole on the southern end of Lieutenant's Island to the Eastham/Wellfleet marker in Hache's Creek, and south of the Lieutenant's Island Bridge.

Wellfleet Harbor (CCB 10, 11, 12, 13, and 14): All marine waters and intertidal areas enclosed north of the Eastham/Wellfleet Town Line, and east of a boundary from the Eastham / Wellfleet boundary on Billingsgate Island to the southern tip of Jeremy Point.

West Side (within CCB 11): The portion of the west side of Wellfleet Harbor immediately southeast of the no quahog dredge line (see below), offshore from the area commonly known as Middle Meadow.

No-drag Line:

1: Line extending from the navigational beacon (#14) at the seaward end of Indian Neck breakwater to a point on the tip of Great Island, marked with a striped (candy cane) pole.

2: Line extending from the striped pole on Field Point to the boathouse on Lieutenant Island.

No-quahog-dredge Line: Line extending from a point in Middle Meadow marked with a striped pole, towards the US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach, ending where this line meets the No-drag Line (near the rocks known as Old Saw).

4.3. Landing of Shellfish

Landing of Shellfish: All shellfish harvested in Wellfleet shall be landed in Wellfleet.

4.4. Daily Limit

No permit holder shall take shellfish or other marine organisms in excess of the daily limit. Noncommercial limits (Section 5.3.2); commercial limits (Section 6.3).

4.5. No Same Day Landings in Excess of Daily Limit

No person shall come ashore with shellfish and return to the waters of the Town on the same day for the purpose of taking additional shellfish in excess of the daily permit limit.

4.6. Landing Shellfish Before Shucking

No shellfish shall be brought ashore except in their shells with the exception of sea scallops.

4.7. Daily Time Limits

No person shall harvest, pick, dig, pile, take or carry away any shellfish from the waters of the Town, by any method between one half (1/2) hour after sunset and one half (1/2) hour before sunrise. [\(MGL](#)

[Chapter 130: Section 68\)](#)

4.8. No Shellfishing Below 28 Degrees Fahrenheit

Except in areas licensed for aquaculture, no shellfishing shall be carried on when the air temperature is below 28 degrees Fahrenheit (2 degrees Celsius), as determined by the Shellfish Constable and as indicated by a buoy displayed on the flagpole next to the Shellfish Office, on the Shellfish Department answering machine and on the Town website.

4.9. Poaching

Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130; and Section 11. 6 [Revocation of Shellfishing Permits.](#))

4.10. Disturbance of Grant by Other Than Licensee

No one may in any way disturb the growth or arrangement of shellfish on a licensed area, or work a dredge, or use any other implements to harvest shellfish, or discharge any substance which may directly injure the shellfish upon a licensed area, or willfully damage, remove or tie up to any of a grant's designating boundary markers, without the express consent of the licensee. No one, while upon or sailing over any such licensed acreage may have overboard any implement for the taking of shellfish, under any pretense or purpose whatever, without the expressed consent of the licensee. (See MGL Chapter 130; [Section 66](#) and [Section 67](#))

4.11. License and/or Permit Required

All persons fourteen (14) years old or older engaged in taking, removing, or having in possession eels, sea worms or shellfish, including soft-shelled clams, quahogs, surf clams, sea clams, razor clams, oysters, mussels, and scallops, taken from the waters of the Town shall have an appropriate license or permit obtained and used only in accordance with all terms, conditions and restrictions.

4.12. Inspection on Demand

All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents.

4.13. Display of Permit/License

Individuals engaged in shellfishing, eeling or gathering sea worms must have a Town license or permit prominently displayed and show the same on demand to Shellfish Officers, Police Officers or other duly authorized agents.

4.14. Possession of Seed Restricted

No person who does not hold a state propagation permit or ~~an aquaculture license~~ is not named as an authorized individual on a license holder's propagation permit shall have in his or her possession seed shellfish, defined as; quahogs less than one (1) inch wide (thickness of both valves across the hinge); soft-shell clams less than two (2) inches in length; oysters less than three (3) inches in height (except for aquaculture license holders under certain conditions as specified in Section 7.16 (Undersized Oysters, Quahogs and Surf Clams) or bay scallops without a well defined raised annual growth line. A violation of this regulation shall exist if the take contains more than 5% seed shellfish per batch (see Section 7.15 Shellfish Seed). No person whatsoever who is shellfishing in the wild may be in possession of over 5% seed shellfish per batch.

Commented [GJC2]: Should this be "and"?

Commented [S3R2]: See suggested changes to accommodate DMF permit allowances and distinguish between farmed and wild seed possession.

4.15. Methods of Harvest

The taking of any shellfish from the waters of the Town of Wellfleet by any method other than those commonly known as handpicking, long raking, bull raking, jerk raking, basket raking, scratching, tonging, digging, dragging or dredging (See Section 8: Commercial Shellfishing: Dragging and Dredging) ~~will be~~ is prohibited.

A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area.

4.16. Detrimental Practices of Harvesting by Hand Prohibited

It is prohibited to harvest any species of shellfish in a manner that inhibits the growth or survival of any other species of shellfish.

4.17. Handpicking or Scratching-only Areas

Handpicking, scratching or basket raking are the only permitted methods of harvesting shellfish, north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw, thence in the same direction to Great Island at Mean High Water except when otherwise allowed by the Selectboard.

A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area. (See Appendixes for area maps and GPS coordinates.)

4.18. Transplanting

4.18.1. Transplanting Shellfish Outside of Wellfleet Waters

No shellfish of any size shall be taken out of the Town for the purpose of transplanting or to be placed in

any waters outside the limits of the Town without the proper permits.

4.18.2. Transplanting Shellfish Into Wellfleet Waters

No shellfish shall be planted or transplanted into the waters of the Town, without the proper permits, certificates of origin, and approval by the proper authorities.

4.18.3. Harvesting Seed from the Wild Not Generally Allowed

The handpicking of oyster seed from the public resource is prohibited with the following exception: from time to time, under special conditions identified by the Shellfish Constable, recommended by the Shellfish Advisory Board and approved by a vote of the Selectboard, oyster seed may be taken for the purpose of transplantation.

4.19. Areas Restricted to Use by Permit Class

No holder of a commercial permit shall take shellfish from an area reserved for the holders of noncommercial permits and vice-versa.

4.20. Annual Opening and Closing of Scallop Season

Scallop season shall open October 1st and shall close April 1st the following year, except when otherwise regulated.

4.21. Motorized Vehicles on Beaches

Only commercial permit holders ~~or~~ and aquaculture licensees and their employees who are duly registered with the Shellfish Department may use motorized vehicles on beaches or intertidal Areas provided that such use is permitted by the Conservation Commission. (See Section 6.5 Use of Motorized Vehicles for Shellfishing.)

Commented [S4]: Not sure why this has been added. Each licensed area has been approved by ConsComm and each license lists its access. We suggest deleting.

Section 5. Noncommercial Shellfishing

5.1. Seasonal Restrictions: Open and Closed Areas

The opening and closing of noncommercial shellfishing areas, as well as catch limits, may be subject to change by vote of the Selectboard. (See Section 5.3.2 Noncommercial Catch Limits) Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Chipman's Cove: closes for the taking of all shellfish on April 30 and reopens on the last Sunday in October, unless otherwise regulated.

Area 2 (Indian Neck): open for the harvesting of shellfish, with the following limits and on the following days, unless otherwise regulated:

- June 1 through September 30; will be open Sundays and Wednesdays, annually.
- October 1 through May 31; will be open seven (7) days a week, annually.

Area 3 (The rest of the Harbor with the exception of commercial-only areas): Open for the harvesting of shellfish on the following days, unless otherwise regulated:

- June 1-September 30; will be closed to all noncommercial shellfishing, annually.
- October 1-May 31; will be open seven (7) days a week, annually. (See Section

4.1.) 5.2. Permits

5.2.1. Eligibility for Noncommercial Permits

Annual and seasonal noncommercial permits may be issued to ~~any person~~ anyone, twelve (12) years of age or older. Veterans of the Commonwealth of Massachusetts are entitled to a fee not greater than the fee charged to residents of the Town of Wellfleet upon presentation of their Veteran ID card. In addition, non-resident employees of the Town of Wellfleet are entitled to one

(1) recreational shellfishing permit at the resident rate; this is only valid for the employee him- or her-self while currently employed by the Town.

5.2.2. Noncommercial Permit Fee Schedule (amended 12/20/2022: \$10 increase) **Annual Permits** (Jan.1-Dec. 31)

Resident or Taxpayer	70.00
Resident or Taxpayer over 65 years old	30.00
Nonresident or Nontaxpayer	220.06
Massachusetts Resident Veteran Permit*	70.00'
Massachusetts Resident Veteran Permit over 65 years old *	30.00
Town of Wellfleet Employee	70.00
Town of Wellfleet Employee over 65 years old	30.00

**Seasonal
Noncommercial Permits** (June 1— Sept. 30)

Resident or Taxpayer	50.00
Non-resident or Non-taxpayer	95.00
Massachusetts Resident Veteran Permit*	50.001
Town of Wellfleet employee	50.00

Replacement Fee (for all categories) 30.00

*To enjoy the Massachusetts Veteran Discount, applicants must provide:

1. A Massachusetts license bearing the Veteran seal,
2. A Massachusetts license and a DD-214 form
3. A Massachusetts license and a Veteran ID card issued by the U.S. Department of Veteran Affairs

5.3. Noncommercial Shellfishing Regulations

5.3.1. Required Icing and Shading of Harvest in Warmer Weather

During the *Vibrio* control period, as determined annually by the DMF (see 322 CMR 16.00 Shellfish Harvest and Handling) due to concerns about the presence of *Vibrio parahaemolyticus*, oysters taken by noncommercial permit holders shall be put in a container and surrounded by ice made from potable water within two (2) hours of the time when the first oyster (harvested on a given day) is taken from the water or, in the case of intertidal harvest, the time of first exposure to the air by tide.

All oysters taken from the water shall be protected from direct exposure to sunlight during harvest and subsequent transport from the harvest area to any destination, at all times.

With the first offense of this section, the harvester will lose his or her catch. With any subsequent offense, the harvester shall lose his or her catch and noncommercial permit for one year.

5.3.2. Cannot Harvest for Commerce

No person holding a noncommercial permit shall harvest shellfish, eels or sea worms for the purpose of sale, trade or other consideration.

5.3.3. Noncommercial Catch Limits

The total amount of shellfish, comprising oysters, quahogs, soft-shell clams or razor clams, blood ark clam or ponderous ark clam taken in one (1) week shall not exceed ten (10) quarts, and the total amount of mussels taken in one (1) week shall not exceed ten (10) quarts, or the total amount of scallops taken in one (1) week shall not exceed one (1) bushel, or the total amount of surf (sea) clams taken in any one (1) week shall not exceed one (1) bushel. The total number of sea worms taken in one (1) day shall not exceed twenty-four (24). There is a 20 lb. limit on the amount of eels that can be taken in one day.

[Faint, illegible text, likely bleed-through from the reverse side of the page]



Section 6. Commercial Shellfishing

6.1. Commercial Permits

6.1.1. Eligibility For Commercial Permits

A commercial permit may be issued to any Natural Person fourteen (14) years of age or older, who is a domiciled resident of Wellfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen (14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person's birthday. Residents over 65 may be issued senior permits.

Formatted: Highlight

Commercial permits will not be issued to unnaturalized foreign born persons who have not resided in Barnstable County at least five (5) years prior to making application ([MGL Chapter 130: Section 55](#)).

6.1.2. Domicile Requirement and Exception

Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet, with the exception of those who have previously held a commercial permit for at least two (2) years, and who have temporarily lost housing in Wellfleet for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of domiciled residency, as defined in Section 2 of these regulations, and verified by the Shellfish Constable, must be resumed within eighteen (18) months from the time of the permit holder's removal to another town or the permit will then be revoked.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the permit holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

~~If the permit holder acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen (18) month period for reestablishing residency, the Wellfleet shellfish permit will automatically be revoked and the licensee/permit holder will not be eligible to reapply unless and until they meet the eligibility requirements in Section 6.1.1 and 6.1.3.~~

~~No commercial permit or aquaculture license from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term, but they may re-apply for their annual commercial permit as per Section 6.1.3.~~

6.1.3. Commercial Permit Requirements

~~Annual commercial permits will be issued from December 1 through January 31st of the permit year, — Applications for commercial permits will be accepted between December 1 and January 31 and shall be subject to a thirty (30) day review of the application by the Shellfish Constable prior to submission to the Selectboard for a vote.~~ Annual commercial permits are valid from Jan. 1 through Dec. 31. Permits will only be issued/consigned for use after the applicant has shown proof of having a valid State commercial permit with a shellfish endorsement and a valid shellfish transaction card from the DMF. [CMR 322 7.01 \(2\) g, i, k](#)

Commented [S5]: This does not happen and has never happened. It would encumber the streamlined process the Town has always used, which is to automatically issue permits for applicants who have proven residence to the criteria established in Definitions. Resident and who hold valid state permits. Adding this in would mean that people would be held up from shellfishing immediately. New applicants must show a state seller's card before their permit will be given to them. We have made that distinction here.

Commercial Permit Fee Schedule (~~amended 12/20/2022 to require all grant a commercial shellfishing permit.~~)

Resident	\$310.00
Senior Resident (65 years or older)	\$60.00
Junior Resident (14-16 years old)	\$110.00

Commented [GJC6]: I recommend adding the requirement for a commercial shellfish permit in the eligibility section.

6.1.4	Eel Permit	\$3.00	
<i>patches</i>	Replacement Fee (for all categories)	\$20.00	<i>license holders to</i>

6.1.5. Hardship Exemption

The Selectboard may at its discretion grant permits [applied for](#) after January 31' if the applicant demonstrates **all three** of the following conditions:

- that unusual circumstances existed which would reasonably excuse a failure to file an application prior to February 1', and
- that a substantial hardship would be caused by the refusal of a permit, and
- that the granting of the late permit would not affect the opportunity of applicants, who have applied in a timely manner, to harvest a reasonable quantity of shellfish.

6.2. Commercial Shellfish Regulations

6.2.1. Required Icing and Shading of Product

Annually, during the period of time that the DMF's *Vibrio* control plan is in effect, harvesters must comply with the State's regulations. (See 322 CMR 16.00 Shellfish Harvest and Handling.) [In addition to any other applicable penalties](#), with the first offense of this section, the harvester will lose his or her product. With any subsequent offense, the harvester shall lose his or her product and license and/or permit for one year.

6.2.2. Harvest Must Be Tagged

At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags.

6.2.3. Minors Under Fourteen (14) Without Permit

Persons under fourteen (14) are permitted to harvest shellfish in a commercial area while under the supervision of a parent or guardian holding a commercial permit. No shellfish may be taken in excess of the daily limit of the permit held by the parent or guardian.

6.2.4. Commercial Catch Limits

6.2.4.1. Bay Scallops

No vessel shall take more than ten (10) bushels (tied) of scallops, including shells. No more than twenty (20) bushels (tied), shells included, shall be taken by any vessel having two (2) or more permit holders on board, in one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.2. Mussels

There is no limit to the taking of mussels per commercial permit per day.

6.2.4.3. Oysters

a. Hand Picking: no commercial permit holder shall take more than five (5) bushels of oysters, including shells, per day.

b. Dragging / Dredging: No more than five (5) bushels of oysters including shells, per commercial permit holder shall be taken by a vessel in any one (1) given day. No more than ten (10) bushels including shells shall be taken by any vessel having two (2) or more commercial permits aboard in any one (1) day. The captain of said vessel shall be cited for each violation.

The following table shows the results of the analysis of variance for the dependent variable of the study. The independent variables are the type of intervention (Control, Experimental) and the time point (Baseline, Follow-up). The dependent variable is the mean score on the questionnaire.

Source	SS	df	MS	F	p-value
Control	10.00	1	10.00	4.00	.05
Experimental	20.00	1	20.00	8.00	.01
Time	30.00	1	30.00	12.00	.001
Control x Time	5.00	1	5.00	2.00	.16
Experimental x Time	10.00	1	10.00	4.00	.05
Error	150.00	24	6.25		

The results of the analysis of variance show that there is a significant main effect of the experimental intervention ($F(1, 24) = 8.00, p = .01$) and a significant main effect of time ($F(1, 24) = 12.00, p = .001$). There is also a significant interaction effect between the experimental intervention and time ($F(1, 24) = 4.00, p = .05$). The control group shows no significant main effect ($F(1, 24) = 4.00, p = .05$) and no significant interaction effect with time ($F(1, 24) = 2.00, p = .16$).

The mean scores on the questionnaire for the control and experimental groups at baseline and follow-up are shown in the following table.

Group	Baseline	Follow-up
Control	50.00	55.00
Experimental	60.00	80.00

The mean scores on the questionnaire for the control group are 50.00 at baseline and 55.00 at follow-up. The mean scores on the questionnaire for the experimental group are 60.00 at baseline and 80.00 at follow-up.

6.2.4.4. Quahogs

a. Hand Picking: No commercial permit holder shall take by raking more than five (5) bushels of quahogs, including shells, in any one (1) day.

b. Dragging / Dredging: No more than fifteen (15) bushels of quahogs including shells, shall be taken by a vessel having one (1) commercial permit aboard, in one (1) day. Captain of said vessel shall be cited for each violation. No more than twenty-five (25) bushels including shells shall be taken in one (1) day by a vessel having two (2) commercial permits aboard. The captain of said vessel shall be cited for each violation.

6.2.4.5. Razor Clams

No commercial permit holder shall take more than two (2) bushels of razor clams in any one day.

6.2.4.6. Sea Worms

No commercial permit holder shall take more than forty-eight (48) sea worms in any one (1) day.

6.2.4.7. Soft-shell Clams

No commercial permit holder shall take more than three (3) bushels of soft-shell clams in any one (1) day.

6.2.4.8 Blood Ark Clam or Ponderous Ark Clams

a. Hand picking: No commercial permit holder shall take more than 10 (ten) bushels of ark clams, including shells, in any one day.

b. Dragging/Dredging: No more than ten (10) bushels, including shells, shall be taken by a vessel having one (1) commercial permit holder, in one (1) day. No more than twenty (20) bushels, including shells, shall be taken in one (1) day by a vessel having two (2) commercial permit holders aboard, in one (1) day. The captain of said vessel shall be cited for each violation.

6.3. Daily Area Catch Limits - 1 bushel = 32 quarts

Area	Oysters	Quahogs	Soft-shell clams	Blood Ark/ Ponderous Ark Clams
Herring River	1 bushel	1 bushel	1 bushel	10 bushels
Mayo Beach	1 bushel	2 bushels	3 bushels	10 bushels
Duck Creek	1 bushel	1 bushel	1 bushel	10 bushels
Blackfish Creek	1 bushel	2 bushels	3 bushels	10 bushels
Main Harbor	5 bushels	5 bushels	3 bushels	10 bushels
Chipman's Cove	1 bushel	1 bushel	1 bushel	10 bushels
South Lt. Island	1 bushel	1 bushel	3 bushels	10 bushels

6.4. Seasonal and Other Restrictions: Open and Closed Areas

The opening and closing of these areas, as well as catch limits, may be subject to change by vote of the Selectboard. Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Dragging or diving within 25 feet of all areas licensed for shellfish aquaculture is prohibited.
(See Section 8.9 No Dragging/Dredging Near Licensed Areas)

6.4.1. Chipman's Cove:

- a. Harvest dates: Chipman's Cove will close for the taking of all shellfish on April 30 and will reopen on the last Sunday in October of the current year, unless otherwise regulated.
- b. Landing Sites - All shellfish are to be landed at the end of Old Pier Road, at the Marina boat ramp or piers, or from a point on the road along the southern perimeter of the Cove nearest the harvesting site, unless permitted otherwise by the Shellfish Constable.
- c. Harvesting Restrictions-All shellfish are to be removed from the area at the time of harvest. No shellfish are to be left on the flats and removed at a later time of day, by any means or methods. Diving for shellfish is prohibited.
- d. Spat collection area-An area of Chipman's Cove for placement of oyster spat collection by shellfish grant license holders, approximately 300' by 300' marked by yellow buoys, will be so designated from June 1 through October 31 of current year, unless otherwise regulated.

6.4.2. Duck Creek:

- a. Harvest dates - Duck Creek will open for the taking of all shellfish on December 1 and will close on April 30, pending State approval, unless otherwise regulated.
- b. The taking of shellfish from the bulkheads, pilings and adjacent flats in the area of the "L" pier, behind the fuel dock and inshore of the finger piers near the boat ramp shall be PROHIBITED until further notice.

6.4.3. Herring River

Herring River will be open to shellfishing on a conditional basis as directed by the DMF. The dates of opening and closure will be approved by a vote of the Selectboard
The area is open to the taking of shellfish by Wellfleet Commercial permit holders only. Scuba diving for shellfish is prohibited.

6.4.4. West Side:

The West Side of Wellfleet is open to the taking of shellfish by any means EXCEPT by use of a quahog dredge.

6.4.5. Egg Island:

- a. The north side of Egg Island from the flag pole at Chequesett Country Club easterly to the Town Pier is open year round for the taking of quahogs and oysters.
- b. Diving from a boat is permitted with the usual restrictions and conditions. The use of scratcher and basket rakes and clam hoes will be allowed; no other methods of harvest are permitted. (See also Section 9 **Commercial Shellfishing: Diving for Shellfish**)

6.4.6. Blackfish Creek:

Blackfish Creek will be open year round for the taking of quahogs, soft-shelled clams and oysters.

6.4.7 South Lieutenant Island

South Lieutenant Island will be closed for the taking of oysters from June 1st through September 30th.

6.5. Use of Motorized Vehicles for Shellfishing

6.5.1. Motorized Vehicles on Beaches

Only commercial permit holders ~~or~~ and aquaculture licensees and their employees, duly registered with the Shellfish Department, may use motorized vehicles on beaches or in

[Faint, illegible text, likely bleed-through from the reverse side of the page]

intertidal areas. (See Town of Wellfleet General Bylaws under ARTICLE VII GENERAL - [Section 24. Beach Vehicular Traffic By-Law.](#))

6.5.2. Terms and Conditions for Use of Motorized Vehicles

All use of vehicles to access areas licensed for aquaculture or other areas open to commercial permit holders, shall also be in accordance with the applicable general bylaws of the Town, and conditions, which may be imposed by the Conservation Commission.

6.5.3. Speed Limit on Beaches and Intertidal Areas

No person engaged in commercial shellfishing or aquaculture shall operate a motorized vehicle at a speed in excess of fifteen (15) miles per hour or a motorized vehicle which is dual wheeled or which has a gross vehicle weight (GVW) greater than nine thousand two hundred pounds (9200 lbs.) on any tidal beach or flat or other land below the mean-high water line.

6.5.4. Allowed Line of Access for Vehicles

Persons engaged in commercial shellfishing or aquaculture operating motorized vehicles on any tidal beach or flat or other land below the mean-high water line shall drive only on the foreshore of the tidal area below the high tide line but above the tidal flat, closely rounding every groin or other obstruction extending below the high water line, to a point opposite a licensed area, and thence to the licensed area. The traffic not directed to a licensed area shall be confined to the area below the high tide line above the tidal flat, closely rounding any groin or other obstruction extending below the high water line. Parking is permitted on the licensed area or in the access route to a licensed or legal harvesting area as described above. ~~The use of motorized vehicles above the mean high water line shall be subject to any requirements or limitations imposed by private property owners.~~

Commented [S7]: We consider this to include employees of aquaculture license holders but we may want to specifically add it here as above in 6.5, such as "...licensees and their employees, duly registered with the Shellfish Department..."

Commented [S8]: This is covered by Colonial Ordinances. Not sure why it would need to be in the shellfishing regs?

Section 7. Shellfish Aquaculture

7.1. Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Surveyed and Subdivided by the Town. Once areas are identified by the Shellfish Constable as potentially suitable for the location of shellfish aquaculture, and the areas are under the control of the Town, the Selectboard may exercise their discretion as the licensing authority for the issuance of license/s for shellfish aquaculture (grants) in compliance with [MGL Chapter 130](#). The Selectboard shall post notice of the availability and location of such acreage, as well as any applicable conditions and/or limitations upon such acreage, on the Shellfish Department's notice board, at Town Hall and on the [Town Website](#).

7.2. Previously Established Grants that Become Available

In the event that a licensed aquaculture area previously certified by the DMF becomes available, its status shall be posted by the Shellfish Constable (see Section 3; [Informing the Public of Meetings Concerning the Fishery](#)) for a period of 30 calendar days. ~~During that time frame, the Town will accept applications from Natural Persons whose names do not already appear on other existing licenses and who meet the eligibility requirements in Section 7.8.1.~~ If more than one qualified person (as described in Section 1 under ~~Domiciled Resident~~, and Section 7.8.1 [Eligibility Requirements](#)) whose name does not appear on another license applies to hold the license, the Selectboard shall hold a public lottery within 14 days ~~of the close of the advertising period~~ to impartially determine who shall be granted the right to [apply for the license](#). ~~Once chosen, the application will be evaluated in accordance with Section 7.6. Process for Approval of Aquaculture Licenses. The submission of an application or having one's name drawn in the lottery does not guarantee that the application will be granted and the Selectboard reserves the right to reject any and all applications. A public hearing will be held for the Selectboard to approve the applicant's assignment to the grant license.~~ ~~use such available acreage for aquaculture. No shareholder, officer, director or other individual holding a similar position having a different title but exercising a similar role, of a corporation that currently holds an aquaculture license in Wellfleet may apply for such grants.~~

Formatted: Highlight

Formatted: Highlight

Commented [S9]: This is required by the state: MGL Ch. 130.

Formatted: Highlight

7.3. Annual License Fee

The annual fee for an aquaculture license to be paid to the Town by each licensee shall be \$25.00 per acre (or portion thereof), as required by [MGL Chapter 130: Section 64](#). Annual fees are due each year by February 28, when annual grant reports are due.

7.4. Location of Areas Licensed for Aquaculture (Grants)

Grants may be located in the following areas:

Area 1: On tidal flats off Mayo Beach and Chequessett Neck from the eastern boundary of the Town property at Powers Landing to the Town Pier and at least three hundred (300) feet northward of a line from the seaward end

of the Breakwater to the easternmost tip of Great Island, except in the area above mean low water on Egg Island.

Area 2: On tidal lands lying north and easterly of the Breakwater and of the northerly tip of Indian Neck.

Area 3: On tidal lands off Indian Neck from Omaha Road south to the eastern tip of Field Point.

Area 4: On tidal lands off the westerly side of Old Wharf Point and at the entrance to Loagy Bay.

Approval of the proposed licensed area shall be determined by the Selectboard with appropriate regard for reasonable navigational and recreational interest in the areas concerned.

7.5. Conditions for Use of Area Licensed for Aquaculture

The Selectboard may license specific areas beneath the waters of the Town to ~~Natural Persons #individuals~~ for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of [MGL Chapter 130](#), those set forth in current regulations of the Division of Marine Fisheries, these regulations or other town bylaws, as well as any specific conditions or restrictions set forth in the license by the Selectboard.

Formatted: Highlight

This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish ~~is prohibited. upon privately owned property may not proceed over the objection of the property owner.~~ This license does not authorize any ~~entry upon or~~ damage to private property or other violation of private rights. The issuance of this license is not a determination of title or ownership. The licensee acknowledges that it is the responsibility of the licensee to obtain permission ~~if requested in writing,~~ from the property owner, before exercising the rights conferred by the license ~~other than for the planting, growing and harvest of shellfish on that property.~~ However, ~~the~~ license holder is on notice that the owners of the property described in the license may nevertheless bring an action for trespass in a court of competent jurisdiction ~~if permission is not secured.~~ A license holder may not rely on this license as a defense to an action in trespass. (MGL Chapter 130; [Section 57.](#))

Commented [S10]: Adding this would put grant holders on private property immediately out of compliance because all grants currently have owner permission to operate there. We suggest deleting it.

7.5.1 Access to Areas Licensed for Aquaculture is Required

There will be permitted and designated access to all licensed acreage. The method or methods of access shall be precisely specified in the text of the aquaculture license ([grant/lease](#)) granted by the Selectboard. ~~Access to grants over private property shall be subject to the discretion of the private property owner and may be prohibited or restricted.~~

Commented [S11]: While true, does not need to be in regulations from WSD viewpoint.

7.5.1.1. Vehicle Access to Grants

Vehicle access will only be allowed when:

- a. Town roads and Town landings are used;
- b. The owners of private roads to be used have [agreed to the users objection](#);
- c. The specific route of entry from the roadway onto the beach and flats is approved and conditioned by the Conservation Commission.

7.5.1.2 Non-vehicular Access to Grants

Access by foot and/or boat shall be designated in the aquaculture lease, in all cases in which vehicle access is not possible or permitted.

7.6. Process for Approval of Aquaculture Licenses

The Selectboard shall accept and process applications for area licenses in accordance with [MGL Chapter 130; Section 57.](#) and the application procedure of the Town.

7.6.1 Application Procedure

This procedure applies to new grant applications, applications for extensions to current grants and grant renewals and transfers. All ~~potential new lease holders~~ Applicants, including applicants for renewal of existing grants, must meet the eligibility requirements in Section 7.8.1 [Eligibility Requirements](#). In addition, current ~~license/lease~~ holders applying [for renewal](#), to be added to another grant or applying for

extensions of existing grants must have complied with all Town of Wellfleet Shellfishing Policy and Regulations for at least three (3) years preceding the application for each grant license to which the applicant is named. These include but are not limited to: Section 7.3 Annual License Fee, 7.12 Evidence

of Productivity: Use It or Lose It, 7.13 Annual Report, 7.14 Annual Inspection of Each Grant, 7.15.1 Required State Seed Propagation Permit and 7.19 Aquaculture Gear and Equipment. If applicant meets all criteria outlined above, then the following is required:

1. Fill out an aquaculture license application and get Shellfish Constable signature. Applications available at Shellfish Department offices.
2. Go over the Checklist for Aquaculture ~~Licensee~~ Applicants with the Shellfish Constable, who shall provide any additional documentation required, such as a form for a Five-Year Business Plan and a template for a letter to the Selectboard.
3. For new grants and extensions:
 - a. Determine whether property owner permission is needed, and if so, obtain written permission.
 - b. Schedule a site visit with Shellfish Constable and Harbormaster to assess the area, ensure the shellfish growing area has an appropriate classification for aquaculture, review approximate coordinates for the new grant boundaries and discuss any potential conflicts. The applicant should include the proposed coordinates and map in the documentation provided to the Shellfish Constable for the Selectboard.
 - c. Have Harbormaster review proposal with regards to reasonable navigational and recreational interests in the areas concerned. (See 7.4 Location of Areas Licensed for Aquaculture (Grants).)
 - d. ~~Set up a site visit with the Harbormaster and Shellfish Constable.~~
4. ~~If the application is complete, including payment of all applicable fees,~~ The Shellfish Constable will request that ~~the~~ public hearing be placed on an upcoming Selectboard meeting agenda and contact the Principal Clerk for advertisement and posting.
5. The Shellfish Constable shall write a letter of recommendation or concern and shall provide all relevant grant application documents for the Selectboard hearing by the meeting packet deadline.
6. ~~For new grants and extensions, By-~~ by or before the date of posting the public hearing, the Shellfish Department shall make contact with and provide notification of the date of the hearing to applicant, the Harbormaster and to intertidal abutters who share boundaries with the proposed site, or who are otherwise adjacent or substantially affected by the change in area, as determined by the Shellfish Department.
7. ~~A public hearing shall be held within 60 days of when the~~ No public hearing will be conducted until the Shellfish Constable receives the complete written application with all required documents and payment of applicable fees., and ~~Once all has been received and verified, a public hearing shall be held within 60 days., and~~ the Selectboard shall determine the outcome of the application and issue a decision.
8. ~~For new grants and extensions, u~~ pon approval by the Selectboard and after the Massachusetts Division of Marine Fisheries biological survey, the applicant must simultaneously
 - a. have the new site professionally surveyed and supply the Shellfish Department with all boundary coordinates in decimal-degrees, and
 - b. start the state and federal permitting process, including, but not limited to, applications for MEPA (MA Environmental Policy Act) if area is a half acre or larger, Notice of Intent (Wetlands Protection Act filing), Chapter 91 authorization, eligibility under the Army Corps General Permit, etc. For more details, visit: <https://www.massaquaculturepermitting.org/>
9. ~~For grants awarded through the lottery system, B~~ efore the applicant can begin to use the site, they shall be required to clean up and remove all old and/or derelict aquaculture gear that may have accumulated on the site as per Section 7.19.4 Removal of Damaged Gear or Equipment and shall have a grant inspection by the Shellfish Department to confirm its readiness.
10. All application requirements shall be at the Applicant's sole cost and expense.

Commented [S12]: Required by MGL chapter 130 sec 57

Commented [S13]: Need to add edits for this section from what we have learned over the past year - will work on them

7.7. Moratorium on Aquaculture Licenses

The Selectboard may at a duly advertised public hearing declare a moratorium (a time-specific closure) on license approvals at any time this action is deemed appropriate and in the best interests of the fishery and the environment.

7.8. Issuance of Licenses for Aquaculture

8.1 Eligibility Requirements: Licenses shall only be issued to Natural Persons who are Domiciled Residents (See Sec.1 Definitions) of the Town 18 years of age or older. ~~who hold valid Commercial Shellfish Permits; and~~ who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the

Formatted: Highlight

Commented [S14]: This excludes people who want to be transferred onto grants between Feb 1 and Nov 30 each year which was not the intention of the addition of this requirement. The intention was to increase revenue, given that grant holders only pay \$25 an acre annually for their aquaculture licenses to the Town. The community should discuss how to add this requirement to the regulations and where. WSD added a draft placeholder paragraph below.

Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant [may be disqualified if they have been found responsible for one or more shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three \(3\) years.](#)

[Given the regulation established on Dec. 20, 2022, that all grant holders must obtain commercial shellfishing permits, at the public hearing for a transferee who does not have a permit, the Selectboard may vote to allow the Shellfish Dept. to issue the permit even if it is outside the Dec. 1 to Jan. 31 time frame when permits are normally sold.](#)

7.8.2. Domicile Requirement and Exception

At such time as a licensee ceases to be a domiciled resident of the Town, that individual shall be removed from the license [and the license shall be deemed revoked unless other eligible licensees remain on the license, except This section shall not require removal or revocation](#) in the event of loss of housing for reasons clearly beyond ~~their~~ [an individual's](#) control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section [12](#) of these Regulations ([Definitions](#)), must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the licensee's ~~holder's~~ removal to another town, or the licensee will be removed from the license [and the license shall be deemed revoked unless other eligible licensees remain on the license.](#)

Within 30 days of the nine-month anniversary of losing his/her domicile status, the ~~licensee/lease holder~~ [licensee/lease holder](#) shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the ~~licensee/lease holder~~ [licensee/lease holder](#) fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

[If the licensee acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen \(18\) month period for reestablishing residency, the licensee will automatically be removed from the license, and the license will be revoked if there are no other eligible licensees, and the licensee will not be eligible to reapply unless and until they meet the eligibility requirements in Section 7.8.1.](#)

[No aquaculture license or commercial permit from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term. A licensee making use of an exemption shall not be eligible to be granted a new license or an extension of a currently licensed area for the duration of the allowed term but may be granted a renewal of their existing license, as per Section 7.8.2.](#)

The status of all other licensees named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole licensee, then the license shall be revoked.

7.8.3. Renewal of Aquaculture Licenses

The initial term for a new license shall be two (2) years. Provided appropriate effort has been demonstrated, as required in Section 7.12, [and the licensee continues to meet the eligibility requirements in Section 7.8.1.](#) the first renewal of a license may be for five (5) years, unless the licensee agrees to a shorter term. Subsequent renewals may be for ten (10) years, unless the licensee agrees to a shorter term. Renewals may be requested and acted upon only during the twenty four (24) months immediately prior to the expiration date of the current license. The renewal period shall begin on the expiration date of the existing license. [Renewal applications will be processed in accordance with Section 7.6.1.](#)

7.8.4. Limit on Individuals Licensed to Use a Grant

Licenses issued under [MGL Chapter 130: Section 57](#) by the Selectboard of the Town of Wellfleet may be issued to up to four (4) individuals, 18 years of age or older, meeting the requirements set forth Section 7.8.1. The Selectboard will not recognize more than four (4) individuals as licensees on any one license. Each individual who is licensed to use an area for aquaculture must acknowledge and approve the addition of any person who subsequently applies to be included on that license.

7.8.5. Working of Grants by Non-Licensees

[Licensees may employ or use the services of non-licensed individuals to work their Licensed Areas.](#)

All individuals authorized by a [Licensee licensed grant holder](#) to work the [Grant in the absence of a licensed grant holder](#) must be registered with the Shellfish Department [and the licensee must notify all other license holders, be approved in writing by all Licensees on the Grant.](#)

[Persons authorized to work in a Grant area shall do so only in their individual capacity and shall not act on behalf of or be employed by any Institution that participates in the shellfish industry, unless it is an Institution formed by a licensee for the purposes of facilitating their work on the Grant.](#)

Licenses are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their registration. When more than one licensee has been granted a license for the same acreage, each licensee is responsible [only](#) for the actions of [persons working the grant. s: the employees or otherwise affiliated persons who are under their](#)

Commented [S15]: What is reason for adding this? Many grant holders farm independently of each other, effectively running 2, even 3 businesses from one farm. Each has their own employees and up to now in the regulations, each licensee was responsible for their own employees. If one grant holder tells another they can't bring that employee on to help them, it could have a negative effect on that grant holder's ability to make his/her living. We think this merits discussion and suggest a change.

Commented [S16]: We don't understand what this means?

[separate management.](#)

7.8.6. Limit on Size of Grant

No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each person named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individuals holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage.

7.8.7. Grants Established Before August 1, 1993

Any license/s issued prior to August 1, 1993, the date on which the Selectboard established the maximum size of seven (7) acres for an aquaculture holding, will remain valid, and will be allowed to continue [using the entire Licensed Area until the end of the license term, subject to all other terms and conditions of the License and this regulation, as may be amended from time-to-time.](#) Any renewal of such licenses shall not be subject to the seven acre rule but shall be subject to all other terms and conditions in this regulation, as may be amended from time-to-time. [If any such license is surrendered, transferred to other than immediate family members, or revoked, it will be subject to the seven acre rule, according to the existing terms and conditions of said license. For purposes of this section, the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of said licensee.](#)

Commented [S17]: This merits input from the specific grant holders this change will affect. We have made a suggestion here to accommodate families.

7.8.8. Aquaculture Research and Development Projects

7.8.8.1. License for Aquaculture Research and Development

The Selectboard may issue a license to an individual or an institution (including a corporation) which proposes to conduct aquaculture research and development projects if environmentally appropriate, in the best interests of the town, and beneficial to the aquaculture industry.

Commented [GJC18]: Is this still going to be allowed?

Commented [S19R18]: Good question for community discussion

7.8.8.2. Initial Term of License

The initial term of a research and/or development license shall not exceed two (2) years. The license may then be renewed for a period of up to eight (8) years, for a total maximum of ten (10) years.

7.8.8.3. Plan of Project

The applicants shall provide a plan of the project including all aspects of the management and operations of the project to the Selectboard, the Shellfish Constable and the Division of Marine Fisheries.

7.8.8.4. Dissemination of Data and Results

All data and subsequent results and analyses of the project shall be made available to the Selectboard, the Shellfish Constable, and the Division of Marine Fisheries at predetermined times to be established in the license.

7.8.8.5. Excess Product Returns to Town

Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development specified in Section

7.8.8.6. License for Aquaculture Research and Development shall be turned over to the Town of Wellfleet annually, for appropriate use by the Shellfish Department.

7.9. Rights of Use, Subletting and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter [130:Section 57](#), [Section 63](#) and [Section 67](#).)

Licensees may transfer the rights or responsibilities assigned to their license to any other [Natural Persons individuals, companies or corporations](#) by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area, [provided that the individual meets the eligibility requirements in Section 7.8.1.](#) (See MGL Chapter 130; [Section 58](#) and Section 7.8.3 [Limit on Individuals Licensed to Use a Grant.](#))

[Licensees shall not sublet their Licensed Area to any other person or institution. For purposes of this regulation, a subletting arrangement will be considered to exist if anyone other than the Licensee is permitted to remove product from the Licensed Area and retain it for their own use or the use of another without first turning it over to the Licensee.](#)

Commented [S20]: There are many situations in Town that are operating modestly in this way, and they work to the benefit of the shellfish community - both as friends helping friends, relatives helping relatives, and more importantly as mentorship/apprenticeship opportunities. This proposed regulation would end this practice throughout the harbor. In addition, these practices are a tremendous help to ensure that gear is removed from license sites in preparation for winter harbor ice. WSD is aware of and documents these relationships around the harbor. We are confident that removing this proposed regulation would be of the most benefit to the fishery.

7.10. Inheritance of Rights to Use an Aquaculture License

~~Any license issued under the provisions of MGL Chapter 130, Section 57 shall, upon the death of the sole licensee, continue in full force and effect, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. This is for the use and benefit of~~ Upon the death of a licensee, the immediate family of the deceased licensee may continue to use the license, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. For purposes of this section the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of said deceased licensee. Such persons shall not be required to meet the eligibility requirements in Section 7.8.1, with the exception of the natural person and commercial shellfish permit requirements. Upon the expiration of the term or the one year period, whichever is later, the license shall be deemed surrendered if it is not transferred to a Natural Person meeting the eligibility requirements in Section 7.8.1.

Commented [S21]: The proposed language would allow non-domiciled and non-experienced persons to use the license site in the case of the death of an immediate family member. The language previously in this section was exactly as it appears in MGL. We checked with MADMF who said that it is the Town's prerogative to decide whether it wants to have a domicile or experience requirement in this section or not. It is up to the Town and should be discussed as part of this review.

7.11. Liability of the Town

The Town will not be held liable for any damage to a licensed area, or gear, or stock thereon, by reason of any dredging or other harbor improvements undertaken by the Town.

7.12. Evidence of Productivity: Use It or Lose It

7.12.1. Minimum Levels of Investment and Production

There shall be minimum levels of investment and production required in order to retain an area license. These shall be:

a. During the first, second, and third year after the date of issuance of the license a minimum of \$1000 per acre shall be spent on seed and gear for the area and it shall be evident that this effort of improvement has taken place. Any licensed area that is less than one acre shall be prorated.

b. During the fourth year and every year thereafter there shall be a minimum production of an average of \$1000 worth of product per year per acre, or prorated for a portion thereof, from the practice of aquaculture on the licensed area. This shall be demonstrated by the annual grant report, and, if so requested by the Shellfish Constable, copies of transaction receipts or other acceptable documentation. (See MGL Chapter 130, Section 64 Annual fees for license.)

~~b.c.~~ These requirements apply to the Licensed Area as a whole and not the individual licensees.

7.12.2. Failure to Meet Production Levels

Failure of the licensee/s to meet the specified production level for any three (3) consecutive years may result in the forfeit of the aquaculture license and licensed area, as stated in MGL Chapter 130; Section 65.

7.12.3. Waiver of Production Requirements

The Constable shall have the right to waive the minimum production requirements when there is evidence that the failure to meet the minimum standard is due to events beyond the control of the license holder.

7.12.4. Extension of Licensed Area (Grant): Investment and Production

In the event of an extension being granted to a presently licensed area, the same level of effort per acre for the newly licensed, abutting section is required as described above in Sections 7.12.1 Minimum Levels of Investment and Production and 7.12.2 Failure to Meet Production Levels.

7.13. Annual Report

7.13.1. Due Date

Licensees shall file annual reports under oath, on their activities in accordance with [MGL Chapter 130: Section 65](#) on or before February 28 of the following year. The report must include any changes or deviation from the original plan filed with the original application or any subsequent application.

7.13.2. Penalization for False Report

Any licensee who submits a false licensed area report in violation of [MGL Chapter 130: Section 65](#) shall be penalized by the revocation of his or her license.

7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. The license holder(s) may appeal the Constable's decision to the Selectboard within 30 days after notification. The Selectboard shall hold a public hearing within 30 calendar days of receipt of said appeal. If no appeal is filed on a timely basis, the license will be forfeited.

7.14. Annual Inspection of Each Grant

The Shellfish Department shall make no less than one visit per year to the site of each licensed area in the company of the license holder.

7.15. Shellfish Seed

7.15.1. Required State Seed Permit

No person shall harvest, plant, transplant, transport, sell or otherwise have in their possession seed shellfish, without first obtaining a state seed permit from the Massachusetts DMF, as required by [MGL Chapter 130, Section 80](#) and [CMR 322, Section 15.04\(b\) 1](#)

7.15.2. Special Circumstances for Taking of Seed

From time to time, with the approval of the DMF and the Selectboard, the Shellfish Department may open up an area for the taking of oyster seed only by aquaculture licensees who hold a seed permit.

7.15.3. Use of Spat Collecting Devices

The use of spat collecting devices such as Chinese hats to catch oyster larvae in areas not licensed for aquaculture, may only be done by commercial permit holders who also hold a seed permit (Section 1, [Definitions](#)). During this period, catching oyster larva with such devices is legally considered to be fishing, not farming and the devices are classified as fishing equipment, not growing devices. All devices used in the collection of spat must be tagged with the name of the grant holder and phone number. From time to time, upon receiving a recommendation from the Constable, the Selectboard may vote to limit the areas in which such fishing is allowed or the numbers of Chinese hats or such other devices that may be set out by individuals in these same areas.

7.15.4. Catch Limit for Seed Specified on Permit

No license holder in any one calendar year may take, or cause to be taken, more than twenty-five (25) bushels of seed oysters per acre of licensed area or fraction thereof, pro rated at that rate.

7.15.4. No Seed Harvested by Dragging

No person shall harvest shellfish seed by dragging, except by the licensee within the boundaries of his or her licensed area.

7.16. Undersized Oysters, Quahogs and Surf Clams

7.16.1. Containers Holding Undersized Shellfish Must Be Tagged

All containers that hold market-bound, aquaculture-raised shellfish whose size is less than that allowed by the State when that species is harvested from the wild (petite oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8" and 1", or surf clams whose shell diameter is between 1 1/2" and 5") must be tagged with the words "AQUACULTURE-RAISED" or "FARM RAISED".

7.16.2. Sale Only from Grower to Primary Buyer

The primary sale of undersized, aquaculture-raised (oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8 and 1", and surf clams whose shell diameter is between 1 1/2 and 5") must only be between the aquaculturists or their licensed employee, and a licensed wholesale dealer that is also a "primary buyer of shellfish". If the aquaculturist is also licensed as a primary buyer, they may be considered as the primary buyer of their own product.

7.16.3 Petite Oysters

An aquaculture license holder may harvest and sell farm-raised petite oysters whose greatest length is between 2.5 and 3 inches both in and out of State.

7.16.4 Undersized Quahogs aka "Gems "or "Vongeles"

An aquaculture license holder may harvest and sell farm-raised quahogs whose hinge width is between 7/8" and 1" if:

- a. they are sold only to primary buyers on the inter-state shippers list that distribute them out-of-state. The in-state distribution of aquaculture farm raised quahogs whose hinge width is under 1" is prohibited;
- b. they have documented proof of purchase of seed;

7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams

An aquaculture license holder may harvest and sell farm-raised surf clams whose shell diameter is between 1 1/2 and 5" both in and out of state if:

- a. They have documented proof of purchase of seed.

7.17. Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season:

All such transfers shall be done according to [CMR 500.021](#) and the variance granted to the Town by MDPH/BEH for the years 2018-2020, as authorized on May 1, 2018. A copy of this variance is available to the public on the Town's Shellfish Department [website](#).

7.18. Predator Control

7.18.1. No Lethal Predator Control Measures

Unless specifically authorized by the Director, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, it shall be unlawful to use lethal means to control or exclude predators or other organisms from any area used for aquaculture. Non-lethal enclosures, including, but not limited to, nets, fences, bubble curtains and noise may be used, if approved for a specific site and purpose. Invertebrate predators, pests and fouling organisms may be removed manually from an aquaculture site and disposed of in a lawful manner ([CMR 322, Section 13.7.2](#)).

7.18.2. No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit

Being in possession of horseshoe crabs and whelks (conchs) for any reason requires a State permit. In this regulation, whelk/conch refers to either knobbed whelk (*Busycon carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See [CMR 322 6.34: Horseshoe Crab Management](#) and [322 CMR Section 6.21: Minimum Size for Conch](#).) As stated in 7.17.1, neither species shall be intentionally killed while practicing predator control.

7.18.3. No Harm to Endangered Species

No person shall maintain a predator control method that will intentionally threaten any endangered species.

7.19. Aquaculture Gear and Equipment

7.19.1. Grants Shall Be Marked

Every licensee shall mark the corners of the area licensed under their license with buoys marked with the license number. From April 1st to November 1st, the corners shall be marked with fluorescent yellow balls, at least twenty (20) inches in circumference. Buoys shall be attached to their anchor by cables, chains or non-floating lines. Numbers shall be marked on said buoys, and shall be at least two (2) inches high and shall be black in color. Temporary buoys shall be required from November 1 through April 1.

7.19.2. Height and Arrangement of Equipment

With the exception of spat collection devices there shall be no equipment or gear made of metal that rises

more than eighteen (18") inches above the grade, and equipment or gear made of plastic (or another equally flexible material) higher than twenty-four (24") inches above the grade, within the boundaries of a licensed area.

7.19.3. Marking of Gear

Every licensee shall clearly and permanently mark any and all trays, boxes, holding cars and all other aquaculture gear with the license number of the license area in a manner that is clearly visible.

7.19.4. Removal of Damaged Gear or Equipment

All equipment or gear which is either damaged, or can no longer be used as it was originally designed or intended to be used in the opinion of the Constable, must be removed from a licensed area and either disposed of properly or moved to an appropriate site not located within a protected resource area. This includes, but is not limited to, loose nets, twisted and damaged racks, loose envelopes, grow-out bags and fastening devices.

7.19.5. Overwintering of Equipment on Grants

Racks, rebar or u hooks used to secure nets on a licensed area must either be securely fastened to within two-four inches (2-4") of the bottom or removed by January 15, or before ice prevents removal, whichever comes first, as specified in overwintering agreement. Any licensee who wishes to overwinter racks on their grant must obtain and sign an agreement form available from the Shellfish Department. All gear left on any grant must be tagged as per Section 7.19.3. In parts of the harbor where there may be a risk of silt covering overwintered racks on a licensed area, the Constable may waive the height requirement in 7.19.5 after a visit to the specific site and documenting the adjustment on the Agreement Form.

7.19.6. Fines for Gear Violations.

Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a fifty-dollar ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

7.20. Buffer Zones

There shall be a buffer zone contiguous with the perimeter of any licensed area that is either twenty-five (25) feet wide, or one half the distance to the adjacent licensed area if less than fifty (50) feet, except where two (2) licensed areas abut. It is the responsibility of the license holder/s to keep this area clear of any equipment or gear owned by the licensee/s.

7.21. Exception to Hours of Operation

As required in Section 4.7, no license holder shall harvest, dig, pile, take or carry away any shellfish or shell during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise by any method whatsoever. In the event of impending natural emergencies due to storms, ice or the like, and only after notifying the Shellfish Constable, a licensee may engage in securing stock and gear during this time period. Licensees must notify the Shellfish Constable in advance of their intention to empty seed trays and plant out seed at such times when the extreme tides needed to conduct such activities occur during this time period.

7.22. Hydraulic Harvesting of Shellfish from Grant Areas

The use of hydraulic harvesting gear for the purpose of harvesting shellfish from within the boundaries of a licensed area is permitted under the following conditions and with the following restrictions:

- a) Devices used shall be for the hosed ejection of water under pressure into a shellfish bed;
- b) Pressure pumps shall not exceed five (5) horsepower as rated by the manufacturer;
- c) Noise control devices (i.e. mufflers) shall be in place and in good repair at all times;
- d) Not more than one device may be used on any grant at any time;
- e) Hours of operation shall be between 7:00 a.m. and 1/2 hour before sunset;
- f) The Shellfish Constable shall have the authority to direct an individual involved in the use of such equipment to cease and desist if the Constable feels that there is a problem that necessitates such action. Any individual so ordered shall have the right to appeal the Constable's decision to the Selectboard, at their

first scheduled meeting after the service of such order.

7.23. Extension of Acreage Without Permission and Resolution of Boundary Disputes

Boundary points will be provided by the Town of Wellfleet to all license holders in their license documents, and the Town's boundary points will be considered the only valid points to be used to define each grant's boundaries. No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. In the event that the assigned boundaries of an aquaculture license are called into question, the holders of the grants in dispute may work with the Shellfish Constable to try and resolve the dispute using the town's boundary points and technology, and surveys of shellfish grants on file with the Town. If the parties are unable to resolve the boundary dispute with the Shellfish Constable, the complainant grant holder and/or the Shellfish Constable shall cause the licensed area(s) to be re-surveyed by a registered civil engineer at the complainant grant holder's(s) expense. The professional land survey(s) shall be submitted to the Selectboard, who shall issue a determination on the boundary dispute and, if necessary, adjust the aquaculture license(s) affected thereby accordingly. If a willful violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked by the Selectboard, following a public hearing.

Section 8 Commercial Shellfishing: Dragging and Dredging

8.1. Areas Closed to Dragging/Dredging

No vessel shall operate a drag or dredge north of a line (commonly known as the "no drag line") extending from the seaward end of the Indian Neck Breakwater (see Appendix for coordinates to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Waters.

No vessel shall operate a drag or dredge east of a line extending from the candy pole on Field Point to the boat house on Lieutenant Island (Blackfish Creek No-drag Line), or within one hundred (100) feet of properly marked grants in that area, with the exception that a license holder may drag over his own grant. (See Appendices for maps and coordinates.)

8.2. One Drag/Dredge at a Time

No vessel which operates a drag or dredge shall have more than one drag or dredge in the water in use, at any time.

8.3. Size of Drag or Dredge

No drag or dredge with or without teeth having a width greater than fifty (50) inches shall be used in Wellfleet Harbor. Any drag or dredge used for the purpose of taking oysters, shall have exposed teeth at least one and one half inches in length (1 1/2") as measured from the bottom of the bar, and separated by no more than four (4") inches along the entire exposed portion of the bar which must be in contact with the bottom.

8.4. By-catch Limited to 20%

No vessel shall land more than twenty per cent (20%) of the permitted daily catch of any species of shellfish, as by-catch, other than such species which the gear used is designed to harvest.

8.5. No Hydraulic Harvesting

Hydraulic harvesting of shellfish from vessels is not allowed.

8.6. Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

8.7. Vessels Must be Registered/Documented

Any vessel used for commercial shellfishing in the waters of the Town employing (over the side) a drag, dredge or other gear designed for the taking of shellfish must be registered and/or documented as having Wellfleet as port of origin. The owner of said vessel found in violation of this regulation shall be fined for each violation.

8.8. Landing of Catch

All draggers engaged in shellfishing must land all catch at the Town Pier.

8.9. No Dragging/Dredging Near Licensed Areas

Dragging or dredging within 25 feet of a licensed area is prohibited, except as otherwise noted. (See Section 8.1. Areas Closed to Dragging and Dredging.)

Section 9 Commercial Shellfishing: Diving for Shellfish

9.1. Areas where Diving is Allowed

9.1.1. South of the No-drag Line

A commercial permit holder may harvest shellfish by diving from April 1st to October 1st, in the area south of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Water, south to Eastham/Wellfleet town line.

9.1.2. North of the No-drag Line

When recommended by the Shellfish Department and approved by the Selectboard, divers may harvest shellfish from the waters north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at mean high water, excluding the Herring River. (Area CCB 12).

9.2. No Diving Near Licensed Areas

No person may dive within one hundred (100) feet of any properly marked licensed shellfish area except for license holders diving on their own licensed areas.

9.3. Flag Requirements

All divers and snorkelers shall display a "diver down" flag or other flag when in the water, and must stay within one hundred (100) feet of said flag.

9.4. Daily Diving Limits

Divers with commercial permits are subject to the same daily permit limits as handpickers with commercial permits. Divers with noncommercial permits are subject to the same daily permit limits as handpickers with noncommercial permits.

9.5. No Diving in Channel

No commercial permit holder shall harvest shellfish by diving within the buoyed channel.

Section 10 Eeling

10.1. Eeling Permit Required

No person shall harvest, remove, or catch eels from the waters of the Town without having first obtained an eeling permit from the Town.

10.2. Fykes Not Allowed

No eels shall be taken within the Town by the use of a fyke,

10.3. No Taking of Glass Eels

Taking of glass eels is prohibited.

10.4. Examination of Catch

On the demand of the Shellfish Constables, Police Department or other agent duly authorized by the Selectboard, every permittee shall display in full view his entire catch of eels for examination.

10.5. Catch Limits

Permits for the catching or taking of eels from the waters of the Town shall be issued to domiciled residents for the taking of not more than twenty (20) pounds of eels in any one (1) day.

Section 11 Enforcement

Enforcement protocols and penalties for specific infractions may be found in other sections of these regulations, including:

- 5.3.1 Required Icing and Shading of Harvest in Warmer Weather
- 6.2.1 Required Icing of Product
- 6.2.3. Commercial Catch Limits
- 7.7.13.2. Penalization for False Report
- 7.12.2. Failure to Meet Production Levels
- 7.13.3. Notification of Failure to Meet Minimal Requirements
- 7.18.6. Fines for Gear Violation
- 7.21. Hydraulic Harvesting of Shellfish from Grant Areas
- 7.22. Extension of Acreage Without Permission
- 8.7. Vessels Must Be Registered/Documented

11.1. Enforcement Personnel

These regulations shall be enforced by the Wellfleet Shellfish Constable, Deputy Shellfish Constable, The Wellfleet Police Department (including Special Police Officers) or any duly authorized agent of the Selectboard. Failure to adhere to these regulations can result in fine, suspension or loss of permit, or suspension or loss of license, or all three.

11.2. Penalties for Poaching or Theft

A licensee may in tort recover treble damages of any individual who, without his or her consent, unless otherwise authorized by law or lawful regulation to do so, takes shellfish or equipment from the licensed area during his or her term of use.

(See Sections 4.9 Poaching or Disturbance of Grant and MGL Chapter 130; Section 63 and Section 67 .)

11.3. Authority to Revoke Aquaculture License

The Selectboard or the Director of the Division of Marine Fisheries may revoke an area license in accordance with the provisions set forth in MGL Chapter 130, Sections 57 & 65. In the event that a license is revoked, for reasons other than loss of Domiciled Residence, that individual may not possess seed nor harvest shellfish from any licensed area in the Town.

11.4. Non Criminal Disposition

Enforcement shall include without limitation the noncriminal disposition procedure provided in MGL Chapter 40: Section 21D

11.5. Penalty Fees

The penalties for violation of any of these regulations shall be assigned by the Shellfish Department and shall consist of a fine of \$50 for the first offense, a fine of \$150 for the second offense, and a fine of \$300 for the third offense. In the event of a fourth offense within a period of 5 years, the grant license will be subject to revocation and/or there will be an automatic shellfish permit suspension.

Commented [S22]: Should apply to both commercial shellfishing permits and aquaculture licenses.

11.6. Duration of Shellfishing Permit Suspensions

Holders of Wellfleet shellfish permits shall have their permit suspended by the Selectboard for a period of not

less than three (3) days nor more than fourteen (14) days for the first offense, suspended for not less than thirty

(30) days nor more than sixty (60) days for the second offense, and suspended not less than ninety (90) days for the third offense. In any instance where the permit was due to expire during the proposed suspension period, the suspension may be invoked during the next calendar year. Additionally, the beginning date of the suspension shall be determined by the Selectboard.

11.7. Revocation of Shellfishing Permits

The Selectboard reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

11.8. Acceptance of Suspension Without Request for Appeal

The enforcing officer may offer the offender of any of these regulations the opportunity to immediately accept the suspension of his or her permit for the minimum specified time to begin the following calendar day. In this case, the offender must surrender his or her permit and agree in writing to the suspension. Acceptance or rejection of this offer will in no way affect the disposition of the fine.

11.9. Disposition of Unlawful Catch

The enforcing officer may, at his/her discretion, seize and dispose of any unlawful catch as per [MGL Chapter 130: Section 12](#).

11.10. Prior Terms Revoked

All regulations and specifications made prior to the date of acceptance of these regulations are hereby revoked; with the exception that nothing in these regulations shall be deemed to affect the validity, conditions, or terms of any license granted under the corresponding previous regulations of the Town until the expiration of such license.














11.11. Severability Clause

If any provision of these regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these regulations shall continue in force and effect.






APPENDIX A:

[DMF - Designated Shellfish Growing Areas / Wellfleet](#)

Massachusetts Division of Marine Fisheries - Designated Shellfish Growing Area

Shellfish Area Classification		
	Approved	
	Conditionally Approved	
	Conditionally Restricted	
	Prohibited	
	Restricted	
	Management	
	Close	

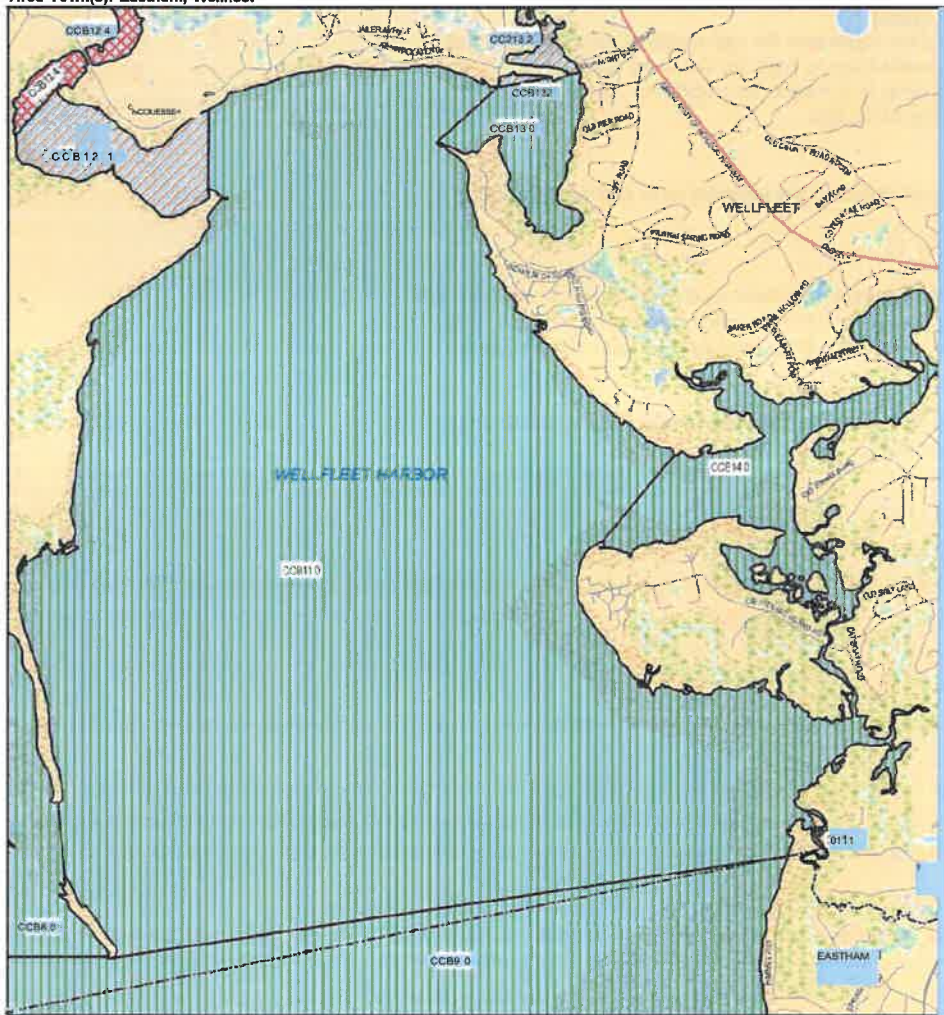


Map Features Legend	
	MUNICIPAL BOUNDARY
	County Line
	State Boundary
	Ball Marsh
	Ice Tidal Flat

Produced: Sep. 10, 2009

Growing Area Code: CCB11
Area Name: WELLFLEET HARBOR
Area Town(s): Eastham, Wellfleet

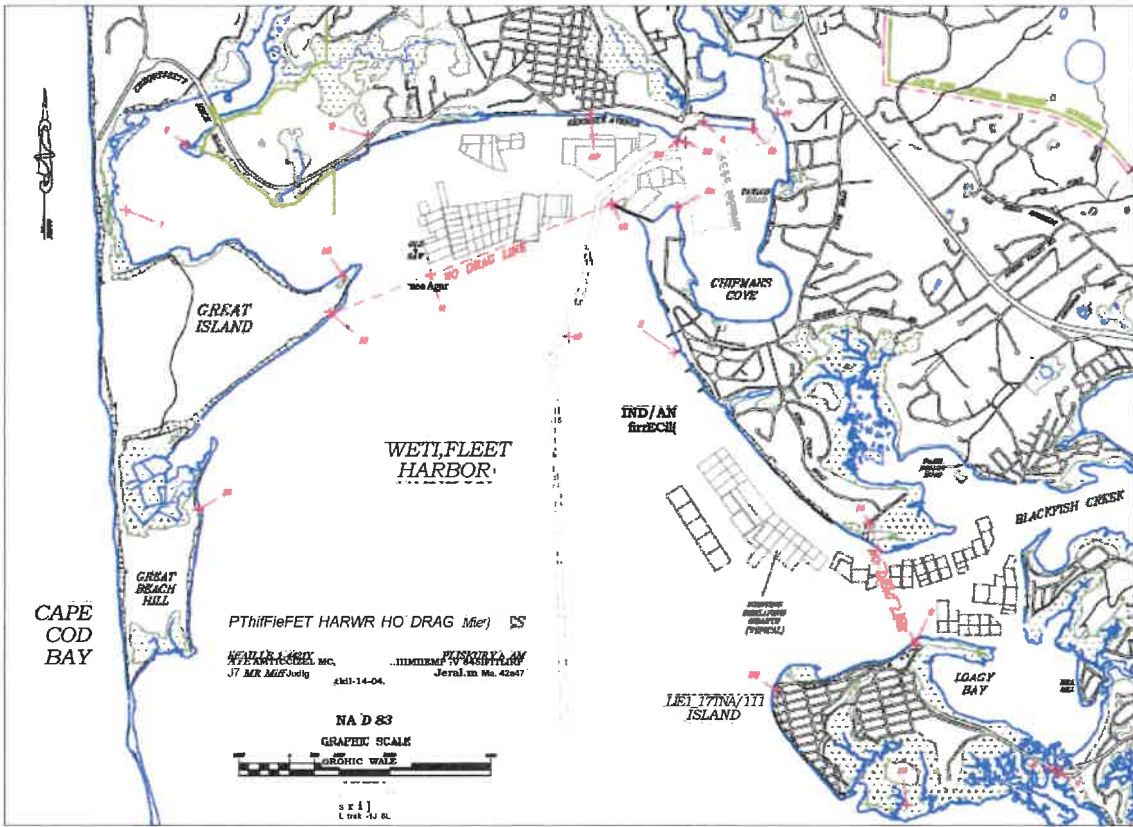
0.1



This product is for planning and education purposes only. It is not to be used by itself for legal boundary definition or regulatory interpretation.

APPENDIX B Latitude and Longitude Coordinates

#	Point description	Latitude (N)	Longitude (W)
1	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92553333	-70.07081667
2	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92911667	-70.06623333
3	Eastern high point of the Town Boat Ramp	41.92993333	-70.02850000
4	Eastham/Wellfleet boundary marker on Billingsgate Island	41.87195000	-70.06666667
5	End of the first groin south of the Burton Baker Landing	41.91717000	-70.03151667
6	Lieutenant's Island Bridge	41.89378333	-70.03091400
7	Lieutenant's Island Bridge	41.89361667	-70.00333333
8	Lieutenant's Island Boathouse	41.90090000	-70.01371667
9	Main flagpole at the Chequessett Neck Country Club	41.92943333	-70.05291667
10	Navigational beacon (#14) at the seaward end of Indian Neck Breakwater	41.92546667	-70.03528333
11	Near the rocks known as Old Saw	41.92168333	-70.04865000
12	Official boundary marker in Hatches Creek	41.88111667	-70.00445000
13	Osprey nest pole on the southern end of Lieutenant's Island	41.89198333	-70.01451667
14	Parking lot at Fox Island, marked with a striped pole	41.90753333	-70.01686667
15	Point in Middle Meadow, marked with a striped pole	41.90891667	-70.06583333
16	Point near the #12 channel marker	41.91818333	-70.03861667
17	Point on the shore on the other side of the channel (across from Shirttail Point), marked with a striped pole	41.93028333	-70.02303333
18	Point on the tip of Great Island, marked with a striped pole (for Herring River)	41.92168333	-70.05495000
19	Point on the tip of Great Island, marked with a striped pole (for No Drag Line)	41.91971667	-70.05596667
20	Point on the tip of Indian Neck, marked with a striped pole	41.92518333	-70.03053333
21	Southeastern tip of Shirttail Point	41.92946667	-70.02488333
22	Southeastern tip of the L pier	41.92878333	-70.02976667
23	Southern tip of Jeremy Point	41.87485000	-70.06363333
24	Southwestern tip of the L Pier	41.92881667	-70.03038333
25	Uncle Tim's Bridge	41.93751667	-70.02835000
26	Uncle Tim's Bridge	41.93693333	-70.02793333
27	US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach	41.93045000	-70.03671667
28	Western edge of the house at the western tip of Lieutenant's Island	41.89838333	-70.02375000



APPENDIX D:

OVERWINTERING AGREEMENT

agree to remove all metal racks, rebar or u hooks used to secure nets, or anything constructed of metal that is not securely fastened to within 2-4" to the bottom by January 15th, or before ice prevents removal, whichever comes first.

If I decide to store racks on my grant(s) over the winter, I agree to the following conditions:

1. All racks shall be tagged with the owner's name and grant number.
2. An accurate number of racks being left on the grant will be provided on this agreement form:
 - All racks with oysters on them are pumped down to within 2-4" of the bottom.
 - All racks without oysters on them are pumped down to be flush with the bottom.
 - I attest that before the threat of ice, I will be able to remove in _____ [e.g. two tides, two days], no matter what the tide height, all racks that will NOT be overwintered but are remaining in use on grant after January 15. These racks are not pushed down. I understand that it is up to Constable's discretion to allow this, and I will work with Shellfish Department to demonstrate my ability to meet this deadline.
3. Any racks that are damaged during the winter must be cleaned up by March 1st or when the departure of ice allows, whichever comes first. This is also addressed in Section 7.19.4.
4. I understand that I am solely liable for any damage my equipment may cause to other aquaculturists or the public.
5. In case of emergency, contact _____ at _____
6. Failure to adhere to these conditions can result in suspension or revocation of my grant license, in accordance with Section 7.19.6. and Section 11 of the Wellfleet Shellfishing Policy and Regulations.

Grant license(s) #: _____

Number of racks to be overwintered with product (2-4" off bottom):

Number of racks to be overwintered without product (flush with bottom):

Number of racks currently on grant, not pushed down, but that will be removed before ice:

Signature _____ Date: _____

Section 1. Definitions

License Holder - A natural person or natural persons, ~~or a firm or corporation~~ holding a license issued by the Selectboard under the provisions of MGL Chapter 130.

Commented [RC1]: This is for clarity, eligibility requirements refer back to the definition of a resident. Consistency is essential in making regulations easier to interpret

Taxpayer - An individual or ~~officers of a corporation or beneficiaries of a trust who that~~ owns land in Wellfleet for which they are taxed by the Town.

Commented [RC2]: This is used for non-commercial permits only. As currently written, only the "corporation" would be eligible to hold a resident or taxpayer non-commercial permit. Again legally, a corporation is the person and not the officers, shareholders, or beneficiaries

Resident - A declared natural person and resident of the Town of Wellfleet. Written proof that Wellfleet is the domicile as well as the legal residence of the applicant shall be required to the satisfaction of the Shellfish Constable and Selectboard. Domicile will be established after one year of residency in Wellfleet is demonstrated. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data, or passport.

Selectboard - The Wellfleet Selectboard (BOSSB); Wellfleet's elected executive Board, designated by the State (MGL Chapter 30) as the regulatory Board that has jurisdiction over shellfishing in the Town.

Transferee - ~~Individual or entity~~ A natural person to whom the right to use a previously established, licensed area for aquaculture has been granted by a vote of the Selectboard.

Formatted: Font: Bold

4.11. License and/or Permit Required

All persons fourteen (14) years old or older engaged in taking, removing, or having in possession eels, sea worms or shellfish, including soft-shelled clams, quahogs, surf clams, sea clams, razor clams, oysters, mussels, and scallops, taken from the waters of the Town shall have an appropriate license or permit obtained and used only in accordance with all terms, conditions, and restrictions.

Formatted: No underline

Formatted: No underline

6.1.4. Commercial Shellfish Permit Fee Schedule ~~(amended 12/20/2022 to require all grant license holders to purchase a commercial shellfishing permit)~~

Commented [RC3]: Moved to eligibility requirements

Resident	\$310
Senior Resident (65 years or older)	\$60
Junior Resident (14-16 years old)	\$110
Eel Permit	\$3
Replacement Fee (for all categories)	\$20

Formatted: No underline

7.2. Previously Established Grants that Become Available

In the event that a licensed aquaculture area previously certified by the DMF becomes available, its status shall be posted by the Shellfish Constable (see Section 3; Informing the Public of Meetings Concerning the Fishery) for a period of 30 calendar days. If more than one qualified person (as described in Section 1 under Domiciled Resident, and Section 7.8.1 Eligibility Requirements) whose name does not appear on another license applies to hold the license, the Selectboard shall hold a public lottery within

Ryan Corley
Comments / Edits

14 days to impartially determine who shall be granted the right to use such available acreage for aquaculture. ~~No shareholder, officer, director or other individual holding a similar position having a different title but exercising a similar role, of a corporation that currently holds an aquaculture license in Wellfleet may apply for such grants.~~

Commented [RC4]: If regs are changed as proposed this sentence is no longer applicable

7.8.1. Eligibility Requirements:

Licenses shall only be issued to those who meet all of the following requirements:

Commented [RC5]: Reformatted for clarity and added commercial permit requirement

- a) domiciled residents (See Sec.1 Definitions) of the Town, 18 years of age or older,
- b) hold a valid Commercial Shellfish Permit
- c) who have the knowledge and experience to fulfill the responsibilities specified in the license defined as either:
 - i. provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. The applicant shall submit copies of state-filed catch reports. OR,
 - ii. provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant.
- d) The applicant shall present a detailed five-year business plan for how s/hetthey intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations.
- b)e) ~~in addition, a~~ any applicant shall not demonstrate show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

Formatted: Numbered + Level: 2 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 0.75" + Indent at: 1"

7.8.3. Renewal of Aquaculture Licenses Terms

The initial term for a new license shall be two (2) years. Provided appropriate effort has been demonstrated, as required in Section 7.12, the first renewal of a license may be for no more than five (5) years, unless the licensee agrees to a shorter term. Subsequent renewals may be for no more than ten (10) years, unless the licensee agrees to a shorter term. Renewals may be requested and acted upon only during the twenty four (24) months immediately prior to the expiration date of the current license. The renewal period shall begin on the expiration date of the existing license. Any licenses issued or renewed after April 30, 2023 shall expire on April 30th of the calendar year of their term.

Commented [RC6]: This includes not only renewals but the issuance of any new license. So Retitled for clarity

Commented [RC7]: This is to mirror state language

Commented [RC8]: This reflects the move to uniform expiration periods.

Formatted: Superscript

7.9. Rights of Use and Transfer

Licenses shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter 130;Section 57, Section 63 and Section 67.)

Licenses may transfer the rights or responsibilities assigned to their license to any other domiciled resident/s who satisfies the eligibility requirements to hold an license individuals, companies or

corporations by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area. (See MGL Chapter 130; Section 58 and Section 7.8.3 Limit on Individuals Licensed to Use a Grant.)

Summary

Formatted: Font: 12 pt, Bold

Summary: Natural Person is an actual living person; there are instances in MGL where the term Natural Person is used to distinguish between a real person and a synthetic person or require a social security card for the same purpose.

Under MGL Ch. 4, §7 Definitions of statutory terms; statutory construction, a person is defined thus:

'Person' or "whoever" shall include corporations, societies, associations and partnerships.

The proposed regulations clearly distinguish between a live person and those also classified as "persons" by law, such as a corporation or other legal entity. An entity (corporation) can meet the requirements to be considered a domiciled resident. Such a "person(corporation)" can remain a domiciled resident even if the underlying ownership of the entity is not held by a domiciled resident/s or changes. A Non-Natural Person is an entity as opposed to an actual person. The eligibility requirements for an aquaculture license require a domiciled resident. A currently domiciled resident is a natural person or an incorporated person (corporation). The applicant must meet all of the eligibility requirements in and of themselves. It is critical to remember that a corporation is a person that exists independently from any officers, shareholders, managers, trustees, partners, limited partners, or directors. These proposed amendments remove the ability of any corporation to hold a license.

7.8.1. Eligibility Requirements: Licenses shall only be issued to domiciled residents (See Sec.1 Definitions) of the Town, **18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license.** The applicant shall submit copies of state-filed catch reports. **OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department.** This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

Formatted: Indent: Left: 0.5"

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Bold

As it exists now, a corporation that meets all the requirements could be eligible to hold an aquaculture license. I would like to point out that Duxbury allowed corporations to hold a license, and they have changed their regulations to prohibit corporations from being eligible to hold any license they

currently hold and have a 2 acre maximum. Those that currently hold a license are allowed to continue to hold it, but no other licenses can be issued to any corporation.

From March 3, 2022, Opinion from Greg Corbo KP Law on Residency Requirements in regards to a Corporation:

..."Rather, to determine a corporation's domicile it is necessary to determine where its principal place of business is located. *Harrison v. Granite Bay Care, Inc.*, 811 F.3d 36, 40 (1st Cir. 2016)..."

"Where, however, a corporation performs its business in more than one location, the United States Supreme Court has established the so-called "nerve center" test to determine the location of a corporation's principal place of business. *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81 (2010). A corporation's "nerve center" (i.e., its principal place of business) is the particular location from which its "officers direct, control, and coordinate the corporation's activities." *Harrison*, 811 F.3d at 40 (quoting, *Hertz*, 559 U.S. at 92-93). Generally speaking, this will "be the place where the corporation maintains its headquarters, provided that the headquarters is the actual center of direction, control, and coordination ... and not simply an office where the corporation holds its board meetings (for example, attended by directors and officers who have traveled there for the occasion)." *Id.*" 03.03.2022

For Reference, the Purpose of the Regulations

Section 2. Shellfishing Policy for the Town of Wellfleet Purpose of Regulations The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing.

To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including 10 Massachusetts General Law Chapter 130, Code of Massachusetts Regulations 322, and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center). To implement this policy, the Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing. Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Further complicating things is that there are multiple types of corporations. Any regulation that would allow corporations would have to be crafted to address the organizational structure of the various kinds

of corporations and how those requirements are interrelated. Regulation regarding corporations would require significant efforts by the Shellfish Department to enforce and monitor. This monitoring would be complex at best, but at scale, it would present an impossible task. The number of facets that would need to be continuously monitored is lengthy, and more likely than not, the added complexity will create confusion and potential loopholes.

Wellfleet's shellfish industry is unique in the state in the number of families it supports. Much of the revenue derived from it is retained within the town. It does not need a radical change in how it is conducted. There is significant value in maintaining the status quo. Effectively what a corporate structure does is that it creates a perpetual license which is a final instrument that can be bought or sold. This is the very thing that the shellfishers organized against in 2018-2020. There are many options to reduce liability and protect assets. I do recommend that aquaculturists look into how they can best protect themselves. Protections include holding insurance policies and moving personal assets such as property into a trust.

Suppose an aquaculturist has a company that has employees and that can include the shellfisher themselves by the way, workplace injuries would be covered under the workmen's comp policy of the company. A consumer getting sick from vibrio or norovirus and the producer has a considerable degree of isolation from that perspective risk provided they follow the management practices approved by the state. Consumers occasionally getting sick from consuming raw shellfish is a known risk of consuming shellfish; as long as that risk is disclosed to them, the consumer has accepted the risk. In terms of exposure, the restaurant or retail market must always disclose that there is a risk in consuming raw seafood. This is why at the bottom of every menu there at a restaurant, there is disclosure. All shellfish are required to be sold to an "original dealer" with a HACCP facility. These facilities assume most of the remaining risks and should have insurance policies to match. If the shellfisher has its own approved facility, this should be in a separate corporation.

Regarding the public potentially injuring themselves due to gear, there would be very little protection offered to corporate directors or officers. As such, they could be found personally liable. However, if the aquaculturist follows the regulations, explicitly marking the grant and the gear is at an acceptable height, this would be a known hazard. There is a standard called duty of care, and when it comes to bathers, "there is no general right of the public to pass over the [tidal flats] or to use it for bathing purposes" (Wellfleet v. Glaze, 403 Mass. 79, 85 (Mass.1988)). In terms of boaters, navigational hazards need to be marked on a map. The Harbormaster and the Shellfish Constable have worked hard on producing a map that shows where these hazards are in addition to clearly marking the grant as required, further serves to provide clear indications of potential navigational hazards, and it is the responsibility of the boater to avoid navigational hazards.

8/29/2023

Dear Members of the Selectboard,

Attached are the draft regulations I submitted as an individual to the SAB. They would require all owners of any licensed entity to be domiciled in Wellfleet. On June 8th the SAB voted **4-3 NOT** to prohibit people from holding an Aquaculture license in the name of their entity. After that vote, they committed to taking up the draft. However, since that time the board membership has changed and they have not to date discussed any language that has been submitted. I respectfully request that you consider this draft regulation in determining how next to proceed.

There are many benefits to running your business through an S-Corp or an LLC, primarily because they limit the personal liability of business owners. Holding a municipal license in a business name is a standard business practice that is engaged in throughout the small business community in Wellfleet. Nearly all entities in the town, including aquaculture farms, are small mom and pop businesses. This hearing is about whether or not the owners of these small aquaculture farms, who are domiciled in Wellfleet, will still be able protect themselves from personal liability so that their homes and assets are not exposed. The Town has allowed this for over 35 years.

The argument being made by some is that the town is not responsible for providing liability protection. To be clear, no one is asking the town to provide liability protection. We are asking the town government not to *prevent* people from being able protect *themselves*. For the last 35 years the Shellfish Advisory Board and its Selectboard have been consistent in determining that it is in the best interest of the town and the fishery to continue to allow this. We are farming a raw food product in a public waterway that is open to recreating. It is fraught with liability. Unlike federal fisheries, this is a Municipal License that can be regulated by the Town as it sees fit. The concerns about non-domiciled entities can be simply handled in the regulations by requiring all owners to be domiciled and eligible to hold a license. The Selectboard has already shown that it can revoke a license to an entity for not meeting the current domicile requirements as they did with ARC.

The Shellfishing Industry is vibrant and has grown exponentially over the last 10 years. My business is one example of that growth. Shellfishing is one of the only means to sustain a family in a town that is quickly pricing people out. Through both good fortune and hard work we have a home, equity and assets. Many young people have been working incredibly hard on the flats to defy the notion that Wellfleet is destined to be no more than an expensive resort town. They have managed to purchase homes, raise families and send there kids to Wellfleet Elementary School. I grew up here. My elementary school class was 50 students. My daughter will enter Kindergarten this spring in a class of only 6. I can't speak for anyone else but I'm proud of this industry and that it supports so many young families including ours. I'm grateful for the opportunity to stay here and raise my daughter out on the flats.

It is my opinion that if you are a domiciled in Wellfleet, that you should be afforded the same ability to protect yourself from personal liability as any other municipal license holder.

Liquor licenses, business licenses, marina moorings, slips, the boat rental booth on the Marina, as well as the leases of public property at Cahoon Hollow, and the pier are all issued to Entities. You could make the same arguments that we need to prevent all of these entities from holding a license or leasing public land. Would you feel comfortable telling all these businesses that insurance is good enough and they must hold the licenses in their individual names?

MICHAEL DEVASTO COMMENTS/EDITS

The fact of the matter is, If you change the regulations to prohibit entities from holding a license, there will still be corporations and entities on the tide in Wellfleet. You cannot control how people run their businesses behind the license. If an entity is listed on the license, the town can require transparency, reporting and domicile requirements for owners. If the entity exists behind the license, there is simply no way to do that. In Barnstable, there is a 2 acre maximum however Cape Cod Oyster operates on 19 acres. They do this by having several people and family members hold separate licenses as individuals. It might sound great to just say lets ban corporations... but the practical effect is that you will have less transparency and farmers will be forced to carry a greater personal liability.

We need to to protect the shellfishing industry, the question is from what and how? In my personal opinion, a major lawsuit is far more likely then a large corporation trying to get all its owners to relocate to Wellfleet in order to retain a 2 or 3 acre license. In the end it's only a matter of time before someone gets sued and realizes that everything they personally own is exposed. Please continue to allow people to protect themselves by regulating entities rather than prohibiting them. Please see attached the draft regulations. As a final note, this subject was discussed during the busiest time in the season for farms and should really be deferred to the winter months when there is more time for stakeholders to participate.

Sincerely,

Michael DeVasto
Field Point Oyster Farm

(submitted as an Individual not a member of the Selectboard)

Intent and purpose:

To strengthen domicile requirements within the currently existing regulations, while still protecting the right for small farming families to protect their personal home, bank accounts and other assets from liability exposure.

****Current regs in Black, proposed regs in Blue***

Definitions

License Holder - A person or persons, or a firm or corporation holding a license issued by the Board of Selectmen under the provisions of MGL Chapter 130.

License Manager - Any Officers, Members or Owners of an entity holding a license that have been approved by the Selectboard to be a license manager. License Managers must meet the eligibility requirements to hold a license and must be domiciled residents of the Town of Wellfleet. Changes in management are subject to the approval of the Selectboard. See 7.8.1

7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: Licenses shall only be issued to domiciled residents (See Sec.1 Definitions) of the Town, 18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years. **In order for an entity to hold an aquaculture license, any and all Shareholders, Officers, Owners or Members shall be domiciled residents of the town of Wellfleet.** The entity shall have at least one but no more than four license managers listed on the license. All License Managers must be owners, members or officers and meet all eligibility requirements to hold a license set forth in the the regulations. Changes in entity management must be submitted and are subject to the approval of the Selectboard. Any entity that holds a license must submit a form containing the documentation of management, proof of eligibility, disclosure of ownership and proof of domicile status along with their annual report to the town.

At such time as a licensee or license manager ceases to be a domiciled resident of the Town that individual shall be removed from the license. The status of all other licensees will not change. If that licensee is the sole licensee then the license shall be revoked.

7.9. Rights of Use and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter 130; Section 57, Section 63 and Section 67.)

Licensees may transfer the rights or responsibilities assigned to their license to any other individuals, companies or corporations by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area. Any entity must be headquartered in the town of Wellfleet and all Shareholders, Members or owners must satisfy the domicile requirements. See MGL Chapter 130; Section 58 and Section 7.8.3 Limit on Individuals Licensed to Use a Grant.)

routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

At such time as a licensee ceases to be a domiciled resident of the Town that individual shall be removed from the license. The status of all other licensees will not change. If that licensee is the sole licensee then the license shall be revoked.

7.8.6. Limit on Size of Grant No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each person, shareholder or member of an entity named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individuals holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage.

6.1.4. Commercial Permit Fee Schedule (~~amended 12/20/2022 to require all grant license holders to purchase a commercial shellfishing permit~~)

*Aquaculture license holders or any managers listed on the license are required to purchase a commercial permit.

7.8.4. Limit on Individuals Licensed to Use a Grant Licenses issued under MGL Chapter 130; Section 57 by the Selectboard of the Town of Wellfleet may be issued to up to four (4) individuals, 18 years of age or older, meeting the requirements set forth Section 7. The Selectboard will not recognize more than four (4) individuals as licensees or license managers on any one license. Each individual who is licensed to use an area for aquaculture must acknowledge and approve the addition of any person who subsequently applies to be included on that license.

**Town of Wellfleet Aquaculture License
Application for License
Change of Management**

ENTITY/ LICENSEE NAME: _____

ADDRESS: _____

CITY/TOWN: _____

Check all that apply:

Check all that apply:

- Add or Change of Management
- Change of Corporate Name
- Change of Officers/ Directors/LLC Managers
- Issuance/Transfer of Stock/New Stockholder
- Change Corporate Structure (i.e. Corp / LLC)

AMENDMENT

Change of License Manager

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name: _____
Title: _____
Email: _____ Phone _____

MANAGER INFORMATION

The individual that has been appointed to manage and have control of the licensed business and premises. No more than 4 managers may be listed on any license and each manager will constitute 1 of 4 allowed persons as required.

Proposed Manager Name: _____
Residential Address: _____
Email: _____
Date of Birth: _____

- Proof of Domicile
- Proof Eligibility
- Disclosure of Ownership
- Documentation that controlling interest is held by Domiciled Wellfleet Residents
- Certificate of good standing from the state
- This will not exceed the maximum number of acres as described in 7.8.6 of the shellfish rules and regulations.

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate and understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Manager's Signature

Date

APPLICANT'S STATEMENT

I, _____ the:
(sole proprietor; partner; corporate principal; LLC/LLP manager) of
_____ hereby submit this application to Wellfleet
Selectboard for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate

1. I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
2. I understand that I must be eligible and domiciled in the town of Wellfleet to be listed as a manager on the licensed sites and any change in domicile must be disclosed to the Shellfish Constable.
3. I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
4. I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
5. I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
6. I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
7. The Board of Directors or LLC Managers of duly voted to apply for this license to the Wellfleet Selectboard
8. I understand the controlling interest of of the licensee must held by Domiciled Residents of the town of Wellfleet
9. The manager or any other shareholder can not have interest in or be listed on more than the maximum number licensed acres allowed in the town
10. Documentation to meet domicile requirements for any managers shall be submitted with the Annual Report on a yearly basis.

Signature

Date

Name of Applicant

Record of Vote

Entity name: _____, voted to authorize _____ a domiciled resident of Wellfleet, as a manger to the license.

Date of Meeting: _____

To appoint (*Name of Person*) _____ to aquaculture license _____ totaling _____ acres, a manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts.”

Signature _____ Date _____

Name/Position _____

Annual Report Disclosure of Ownership

Name of Entity _____
 Address _____
 Town _____ Zip _____

List all individuals involved in the entity (e.g. corporate stockholders, directors, officers and LLC members and managers) and any person or entity with a direct or indirect, beneficial or financial interest in this license.

IMPORTANT ATTACHMENTS: All persons listed below are required to complete a Personal Information Form.

Managers

Name	Domicile Address	Title	% Owned

Ownership Interest:

Name	Domicile Address	Title	% owned

*continued on back of page

Existing Interests in Other Licenses: Does any individual listed have any direct or indirect, beneficial or financial interest in any other aquaculture licenses?

Yes / No

If yes, list said interest below:

Name	Licensed Site	Total Acres

**Each person, shareholder, or member of an entity named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.)
Individuals holding more than seven (7) acres*

Personal Information Form

Licensee Information:

Legal Name of Licensee: _____

Address: _____

Phone Number: _____

Business Name (d/b/a) _____

License Site Numbers: _____

Personal Information:

Individual Name

Address: _____

Social Security Number _____

Place of Employment _____

Home Phone Number: _____

Date of Birth _____

Financial Interest:

Provide a detailed description of your financial interest in this license:

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature

Date

Change of Manager Checklist

- Manager Application
- Vote of the Entity
- Documentation of domicile in Wellfleet
- Proof of Eligibility
- Proof that ownership is held by domiciled residents.
- Disclosure of ownership

Email from Shellfish Advisory Board

Hi Rebekah,

On August 24th the Shellfish Advisory Board reviewed the proposed changes to our town shellfishing regulations which the Selectboard is set to review and vote to adopt at a September 5th meeting.

As a result of this review the Shellfish Advisory Board voted:

To advise the Selectboard to only act on the regulation and definition changes necessary to prohibit corporations or other legal entities or institutions from being named to a license, and not vote on other unrelated proposed changes.

-
-
- Motion passed unanimously. 6-0
-

I've also attached a copy of the full draft minutes from that meeting in case you need it.

Thank you!

Best,
Karen Johnson
Chair, on behalf of the Shellfish Advisory Board

Wellfleet Shellfish Advisory Board
Meeting Minutes – August 24th 2023

Board Members in attendance: Karen Johnson, Nick Sirucek, Adrien Kmiec, Stephen Pickard, Rebecca Taylor, John Duane, Brad Morse (alternate), Damien Parkington (alternate via Zoom)

Audience: Lisa Dexter, Tobin Storer, Margret Jenny, Bob Wallace, Diane Brunt, Randy Williams, Aaron Francis, Ryan Curley, Ralph Basset, Deb Mattingly, Sue Hamar, Denny O'Connell, Helen Miranda Wilson, Alfred Pickard, Bob LaPoint, Jeani Parker, Mike DeVasto, Barbara Austin, John Wallance, Alec LaLone (Does not include Zoom attendees.)

I. Announcement and Public Comments

- COASTSWEEP Beach Cleanup #28

Denny O'Connell asked SAB to co-sponsor the beach cleanup event on Oct 9th @ 10 AM, Board agreed

- KJ gave information about the Lower Cape Outreach Shellfish Harvester Relief Fund for available for Wellfleet Shellfishermen

II. Review and Approve Meeting Minutes – Aug 7th 2023

-Spelling errors were corrected and minutes were considered approved by the board

III. Discuss, deliberate, and vote to authorize response to Open Meeting Law Complaint filed by Jude Ahern dated July 28th 2023 – Amend August 7th motion in order to comply with OML requirements

- Board discussed the legal requirement to send response to the AG and the complainant

- Motion by JD: “Approve the letter to be sent to the AG and Jude Ahern via email tomorrow”

- Motion 2nd'd by NS

- Motion passed unanimously, 6-0

IV. Shellfish Regulation changes being considered by the Selectboard on September 5th, Discuss, Deliberate and Vote on SAB response

Ryan Curley spoke about the proposed regulation changes

BM asked RC for minutes of the meeting b/c BOS members and Town Counsel

Helen Miranda Wilson asked for clarification on what changes we were discussing, talked about the background of the discussion re: corps/entities, and the process/protocol of changing regulations

Mike DeVasto raised concerns about the process. Pointed out that there was a motion and a vote on the matter at the June 8th SAB meeting. Said SAB was supposed to review 3 different proposals and did not.

Aaron Francis spoke of concerns about the future of the industry, and how rising housing costs will make it harder for the next generation to take over

Diane Brunt asked SAB if they could request minutes from BOS

Deb Mattingly pointed out that the draft regulation changes were based on an outdated set of regulations

NS made a motion: “To advise the Selectboard to only act on the regulation and definition changes necessary to prohibit corporations or other legal entities or institutions from being named to a license, and not vote on other unrelated proposed changes.”

Motion 2nd'd, motion passed unanimously. 6-0

V. Family Permits – Options / Proposed Specifications

- BM spoke of interactions with families picking in
- JD spoke of family members rec fishing together
- AK spoke about concerns of the effect of family permits on revenue
- BT spoke about a price compromise and the catch limit
- JD noted that we just recently raised permit fees
- Diane Brunt suggested family endorsement with no raise in catch limit
- DP suggested donations in lieu of extra fees
- SP suggested we get more input and information from WSD and board members
- BT suggested Junior Non Resident Recreational License, others agreed
- SP made a motion: "To bring this issue to the next meeting and ask all of WSD for input, including summer officers" 2nd'd by BT. Motion passed unanimously, 6-0

VI. Future Topics

- Further discussion on Family Permits
 - Cultching
 - WSD Responsibilities
 - JD suggested more involvement from Recreational Shellfishermen
 - DP talked about seed availability, and the need to review the use of fertilizers/pesticides in town and concerns of their effect on water quality
 - Helen Wilson suggested contacting the Non-Resident Taxpayers Assc for more input from recreational harvesters
 - BM also wants to see action on pesticides/fertilizers
 - Bob Wallace spoke about fertilizer nitrogen loading issue
 - Mike DeVasto asked about nitrogen issue as it relates to Herring River
- Restoration Project
- Helen Wilson said she believes that nitrogen mitigation isn't part of the HR Restoration
 - Ryan Curley spoke to how HR Restoration project has aspects that deals with runoff, but nothing specifically with nitrogen loading, especially re: Golf Course

Next SAB Meeting, September 11th, 7:30 at ACC

Meeting called to adjourn at 8:43 pm

Town of Wellfleet

Shellfishing Policy and Regulations

Last Amended 04/09/13, 06/04/13, 7/16/13, and 01/28/14, 06/10/14, 8/05/14, 09/16/14, 03/24/15, 05/12/15, 08/11/15, 09/08/15, 12/08/15, 01/26/16, 4/12/16, 9/13/16, 12/6/16, 3/15/17, 8/22/17, 5/22/18, 1/15/19, 05/28/19, 07/23/19, 09/24/19, 01/14/2020, 07/28/2020, 09/08/2020, 04/27/2021, 06/22/2021, 09/14/2021, 03/08/2022, 06/28/2022, 12/20/2022 (changes are highlighted)

All References to Massachusetts General Law (MGL) and the Code of Massachusetts Regulations (CMR) are valid as of 2014

TABLE OF CONTENTS

Section 1 Definitions

Helen Miranda Wilson comments and edits

Section 2 Shellfishing Policy for the Town of Wellfleet / Purpose of Regulations Section 3 Informing

the Public of Information and Meetings Concerning the Fishery

- 3.1 Posting Policy and Regulations
- 3.2 Posting of Hearings on Shellfish Matters Held by the Selectboard
- 3.3 Open Meeting Law

Section 4 General Regulations (Applying to Noncommercial, Commercial and Aquaculture)

- 4.1 Areas Where Commercial and Noncommercial Shellfishing May Take Place
- 4.2 Boundary and Area Locations
- 4.3 Landing of Shellfish
 - 4.3.1 Landing of Shellfish
- 4.4 Daily Limit
- 4.5 No Landings in Excess of Daily Limit
- 4.6 Landing Shellfish Before Shucking
- 4.7 Daily Time Limits
- 4.8 No Shellfishing Below 28 Degrees Fahrenheit
- 4.9 Poaching
- 4.10 Disturbance of Grant by Other Than Licensee
- 4.11 License and/or Permit Required
- 4.12 Inspection on Demand
- 4.13 Display of Permit/License
- 4.14 Possession of Seed Restricted
- 4.15 Methods of Harvest
- 4.16 Detrimental Practices of Harvesting Prohibited
- 4.17 Handpicking or Scratching-Only Areas
- 4.18 Transplanting
 - 4.18.1 Outside Wellfleet Waters
 - 4.18.2 Into Wellfleet Waters
 - 4.18.3 Harvesting Seed from Wild Generally Not Allowed
- 4.19 Areas Restricted to Use by Permit Class
- 4.20 Annual Opening and Closing of Scallop Season
- 4.21 Motorized Vehicles on Beaches

Section 5 Noncommercial Shellfishing

- 5.1 Seasonal Restrictions: Open and Closed Areas
- 5.2 Permits:
 - 5.2.1 Eligibility for Noncommercial Permits

5.2.2 Noncommercial Permit Fee Schedule

5.3 Noncommercial Shellfishing Regulations:

- 5.3.1 Required Icing and Shading of Harvest in Warmer Weather
- 5.3.2 Cannot Harvest for Commerce
- 5.3.3 Noncommercial Catch Limits

Section 6 Commercial Shellfishing

6.1 Commercial Permits

- 6.1.1 Eligibility for Commercial Permits
- 6.1.2 Domicile Requirement and Exception
- 6.1.3 Commercial Permit Requirements
- 6.1.4 Commercial Permit Fee Schedule

6.1.5 Hardship Exemption

6.2 Commercial Shellfish Regulations

- 6.2.1 Required Icing of Product
- 6.2.2 Harvest Must Be Tagged
- 6.2.3 Minors Under fourteen (14) Without Permit
- 6.2.4 Commercial Catch Limits
 - 6.2.4.1 Bay Scallops
 - 6.2.4.2 Mussels
 - 6.2.4.3 Oysters
 - 6.2.4.4 Quahogs
 - 6.2.4.5 Razor Clams
 - 6.2.4.6 Sea Worms
 - 6.2.4.7 Soft Shell Clams
 - 6.2.4.8 Blood Ark Clam or Ponderous Ark Clam

6.3 Daily Area Catch Limits

6.4 Seasonal and Other Restrictions: Open and Closed Areas

- 6.4.1 Chipman's Cove
- 6.4.2 Duck Creek
- 6.4.3 Herring River
- 6.4.4 West Side
- 6.4.5 Egg Island
- 6.4.6 Blackfish Creek

6.5 Use of Motorized Vehicles for Shellfishing

- 6.5.1 Motorized Vehicles on Beaches
- 6.5.2 Terms and Conditions for Use of Motorized Vehicles
- 6.5.3 Speed Limit on Beaches and Intertidal Areas
- 6.5.4 Allowed Line of Access for Vehicles

Section 7 Shellfish Aquaculture

7.1 Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Subdivided by the Town

7.2 Previous Established Grants That Become Available

7.3 License Fee

7.4 Location of Areas Licensed for Aquaculture (Grants)

7.5 Conditions for Use of Area Licensed for Aquaculture

7.5.1 Access to Areas Licensed for Aquaculture is Required

7.5.1.1 Vehicle Access to Grants

7.5.1.2 Non-vehicular Access to Grants

7.6 Process for Approval of Aquaculture Licenses

7.6.1 Application Procedure

7.7 Moratorium on Aquaculture Licenses

7.8 Issuance of Licenses for Aquaculture

7.8.1 Eligibility Requirements

- 7.8.2 Domicile Requirement and Exception
- 7.8.3 Renewal of Aquaculture Licenses
- 7.8.4 Limit on Individuals Licensed to Use a Grant
- 7.8.5 Working of Grants by Non-Licensees
- 7.8.6 Limit on Size of Grant
- 7.8.7 Grants Established Before Aug 1, 1993
- 7.8.8 Aquaculture Research and Development Projects
 - 7.8.8.1 License for Aquaculture Research and Development
 - 7.8.8.2 Initial Terms of License
 - 7.8.8.3 Plan of Project
 - 7.8.8.4 Dissemination of Data and Results
 - 7.8.8.5 Excess Product Returns to Town
- 7.9 Rights of Use and Transfer
- 7.10 Inheritance of Rights to Use an Aquaculture License (Grant)
- 7.11 Liability of the Town
- 7.12 Evidence of Productivity: Use it or Lose It
 - 7.12.1 Minimum Levels of Investment and Production
 - 7.12.2 Failure to Meet Production Levels
 - 7.12.3 Waiver of Production Requirements
 - 7.12.4 Extension of Licensed Area (Grant): Investment and Production
- 7.13 Annual Report
 - 7.13.1 Due Date
 - 7.13.2 Penalization for False Report
 - 7.13.3 Notification of Failure to Meet Minimum Requirement
- 7.14 Annual Inspection of Each Grant
- 7.15 Shellfish Seed
 - 7.15.1 Required State Seed Permit
 - 7.15.2 Special Circumstances for Taking of Seed
 - 7.15.3 Use of Spat Collecting Devices
 - 7.15.4 Catch Limit for Seed Specified of Permit
 - 7.15.5 No Seed Harvested by Dragging
- 7.16. Undersized Oysters, Quahogs and Surf Clams
 - 7.16. 1 Containers Holding Undersized Shellfish Must Be Tagged
 - 7.16.2 Sale Only from Grower to Primary Buyer
 - 7.16.3 Petite Oysters
 - 7.16.4 Undersized Quahogs aka "Gems "or "Vongeles"
 - 7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams
- 7.17 Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season
- 7.18 Predator Control
 - 7.18.1 No Lethal Predator Control Measures
 - 7.18.2 No Taking of Horseshoe Crabs or Whelks/Conchs Without Permit
 - 7.18.3 No Harm to Endangered Species
- 7.19 Aquaculture Gear and Equipment
 - 7.19.1 Grants Shall Be Marked
 - 7.19.2 Height and Arrangement of Equipment
 - 7.19.3 Marking of Gear
 - 7.19.4 Removal of Damaged Gear or Equipment
 - 7.19.5 Overwintering of Equipment on Grants
 - 7.19.6 Fines for Gear Violation
- 7.20 Buffer Zones
- 7.21 Exception to Hours of Operation
- 7.22 Hydraulic Harvesting of Shellfish from Grant Areas
- 7.23 Extension of Acreage Without Permission and Resolution of Boundary Disputes

Section 8 Commercial Shellfishing: Dragging and Dredging

- 8.1 Areas Closed to Dragging/Dredging
- 8.2 One Drag/Dredge at a Time
- 8.3 Size of Drag / Dredge
- 8.4 By-Catch Limited to 20%
- 8.5 No Hydraulic Harvesting
- 8.6 Commercial Permit Required for Dragging/Dredging
- 8.7 Vessels Must be Registered/Documented
- 8.8 Landing of Catch
- 8.9 No Dragging / Dredging Near Licensed Areas

Section 9 Commercial Shellfishing: Diving for Shellfish

- 9.1 Areas Where Diving is Allowed
 - 9.1.1 South of the No-Drag Line
 - 9.1.2 North of the No-Drag Line
- 9.2 No Diving Near Licensed Areas
- 9.3 Flag Requirements
- 9.4 Daily Diving Limits
- 9.5 No Diving in Channel

Section 10 Eeling

- 10.1 Eeling Permit Required
- 10.2 Fykes Not Allowed
- 10.3 No Taking of Glass Eels
- 10.4 Examination of Catch
- 10.5 Catch Limits

Section 11 Enforcement

- 11.1 Enforcement Personnel
- 11.2 Penalties for Poaching or Theft
- 11.3 Authority to Revoke Aquaculture License
- 11.4 Non-Criminal Disposition
- 11.5 Penalty Fees
- 11.6 Duration of Shellfishing Permit Suspensions
- 11.7 Revocation of Shellfishing Permits
- 11.8 Acceptance of Suspension Without Request for Appeal
- 11.9 Disposition of Unlawful Catch
- 11.10 Prior Terms Revoked
- 11.11 Severability Clause

Appendix A Area Maps

Appendix B GPS Coordinates

Appendix C Wellfleet Harbor/No Drag Lines

Section 1. Definitions

*Unless otherwise identified, all cited Sections refer to sections of the Town of Wellfleet Shellfishing Policy and Regulations. The terms listed in this Section, when used in the Town's **Shellfishing Policy and Regulations**, shall have the meanings that follow:*

Applicant – a person applying for a license or permit, for renewal of a license or permit or the transfer of a license or permit, or an appeal to an enforcement decision by the Shellfish Constable..

Annual Report - A report that must be submitted to the Town every year before February 28^h which includes the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from a licensed aquaculture area, and an estimate of the total number of each kind of shellfish at the time of such

report, planted or growing thereon ([MGL Chapter 130; Section 65](#)).

Aquaculture - The farming of aquatic marine organism including, but not limited to fish, mollusks, crustaceans, echinoderms and plants. Farming implies some sort of intervention in the rearing process to enhance production including, but not limited to controlled propagation, feeding and protection from predators.

Aquaculture License - An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land, under coastal waters (1) to plant and grow shellfish using in-bottom or off-bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet's coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130; Section 57](#)).

Aquaculture Licensed Area (Grant) - See **Licensed Area**.

Aquaculture Permit (See Permit)

Basket Rake - A hand-held implement used for the harvesting of shellfish, which is similar to but longer than a standard clam hoe, which has a basket and no more than twenty (20) teeth, is no wider than 12 inches at its widest part, does not have a T handle, and is only to be used on foot.

Blood Ark Clam and Ponderous Ark Clam - Bivalves of the species *Anadara ovalis* and *Noetia ponderosa* are some of the few marine mollusks having red blood, due to the presence of hemoglobin. Their shells grow to a length of approximately two or three inches and are fairly thick and sturdy. Each of the two valves has approximately 35 radiating ribs. The complete bivalve, when viewed from the end, is heart-shaped.

Selectboard - The Wellfleet Selectboard (BOS); Wellfleet's elected executive Board, designated by the State ([MGL Chapter 30](#)) as the regulatory Board that has jurisdiction over shellfishing in the Town.

Bull Rake - A T-handled hand-held and hauled implement used for the harvesting of shellfish. It shall be 12 inches or wider and have a fixed basket and teeth.

Bushel - U.S. dry measure; 2150.42 cubic inches, or 32 quarts.

By-Catch - The incidental capture of non-target species.

Captain - The master or individual in charge of a vessel.

Channel- The area marked by U.S. Coast Guard navigation buoys indicating a navigable way of passage.

Chinese Hats - Cones or disks of plastic, usually in stacks, coated with mortar with high lime content, used to collect oyster spat.

Clam Rake - A hand tool of typically eight (8) tines or less, used to manually bring clams to the surface of the substrate.

CMR - Code of Massachusetts Regulations.

Commercial Harvest — The harvest of shellfish for sale, trade, or other consideration.

Container - Any bag, box, basket, cage, or other receptacle containing loose shellfish which may be separated from other shellfish after harvest, on a lease, or from the entire load or shipment.

Constable (Warden) - The municipal employee, appointed by the Selectboard, who is in charge of administering the management of the fishery; the head of the Shellfish Department of the Town.

(To) Cull - to remove dead, dying, undersized or otherwise unsuitable organisms (also, the organism which is removed).

(To) Dig and Take - (archaic); See **(To) Harvest**

(To) Dive - The use of SCUBA, surface supplied air, or snorkel to harvest shellfish.

DMF - Division of Marine Fisheries.

Documented Vessels - Commercial or recreational vessels registered through the federal system which have a certificate of documentation, recognized both nationally and internationally, as well as an Official Number permanently affixed to the hull.

Domiciled Resident - See **Resident**

Drag / Dredge - A heavy metal frame with an attached bag, which is towed or dragged along the seafloor to catch bottom dwelling shellfish. Some have metal teeth along the base of the frame that act like a rake.

Extension - An extension of a licensed area abutting a pre-existing area licensed by the same individual.

Fyke - A long bag-shaped fishing net held open by hoops that act as a cul-de-sac funnel.

Gems (Vongeles - Quahogs between 7/8 and 1 inch wide (thickness of the hard clam across both valves at the hinge).

Glass Eel - Eel in its transparent, post-larval stage.

Grant - See **Aquaculture License/Licensed Area**

(To) Handpick - The transfer of shellfish to a container from the substrate by hand or with a hand-held tool of eight (8) tines or less.

(To) Harvest - To gather shellfish or other marine organisms in a container of any sort after sorting and separating them from what has initially been taken from the habitat.

Harvesting Area - An area approved for the taking of shellfish.

Handpicker - An individual who practices handpicking.

Hinge Width - The distance between the convex apex of the right shell and the convex apex of the left shell.

Institution – a corporation, association, organization, trust or other **corporate** entity established by law and that is not a natural person.

Intertidal – The land or area between the mean high and the mean low watermarks.

Re

Jerk Rake – modified bull rake employing a harness.

(To) Land – To bring harvested shellfish by vessel to the Town Pier and to tie up before proceeding elsewhere; to bring harvested shellfish ashore above the mean high water line.

License – An authorization, granted by a vote of the Selectboard, to utilize a specific tract of land under coastal waters (1) to plant and grow shellfish in bottom or off bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Wellfleet’s coastal waters, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats ([MGL Chapter 130](#), Sections 57 – 68).

Licensed Area (Grant) – a **surveyed**, designated bottom area, certified by The Division of Marine Fisheries (DMF) and licensed by a vote of the Selectboard, on which the licensee may plant, grow and harvest shellfish (MGL Chapter 130; Sections **57 & 68**).

License Holder - A natural person or group of natural persons **belonging to one corporate entity**, holding a license issued by the Selectboard under the provisions of [MGL Chapter 130 and this Regulation](#).

Licensee - See **License Holder**

Long Raking - method of harvesting shellfish using a long handled bull or basket rake from a boat.

MGL - Massachusetts General Law.

Mean High Water (MHW) / Tide - The average elevation of all high waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of high tide.

Mean Low Water (MLW) / Tide - The average height of the low waters recorded for a particular point or station over a considerable period of time, as determined by the National Geodetic Survey, National Ocean Service or National Oceanic and Atmospheric Administration; the average water level that demarcates the transition from exposed land to submerged land at the point of low tide.

Mussel - A marine mollusk of the species *Mytilus edulis*.

Oyster - A marine mollusk of the species *Crassostrea virginica*.

Permit - A certificate granting permission to engage in specific activities issued by the appropriate authority.

Aquaculture / Seed Permit, issued by DMF

State Aquaculture Permit: "seed" or propagation permit as defined in MGL, [Chapter 130; Sections 80 and 69](#) and [CMR 322, Section 15.04 \(b\)\(1\)](#):

Authorizes the possession and growing of seed shellfish from an approved source. May be endorsed for the use of upwellers or similar nursery systems to enlarge hatchery seed for planting, but not for resale. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, tagging and record keeping is approved by the Director.

Commercial Shellfishing Permit (Section 6.1), issued by BOS.

Eeling Permit (Section 10), issued by BOS.

Noncommercial, Non-resident, Non-taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

Noncommercial Resident or Taxpayer Shellfishing Permit (Section 5.2), issued by BOS.

— Propagation Permit ([Aquaculture Management - Marine Fisheries propagation permit](#)) (Section 7.15.2), issued by DMF.

Shellfish and Seaworm Permit ([CMR 322, Section 7.01 \(2\) \(g\)](#)), issued by DMF:

Authorizes only the named individual to harvest, possess and land shellfish and seaworms for

commercial purposes, and may be endorsed for the shucking of bay scallops.

Shellfish Transaction Card ([CMR 322, Section 7.01 \(2\) \(k\)](#)), issued by DMF:

Authorizes only the named individual holding a commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

State Commercial [Permit\(Commercial Fishing Permit / Shellfish Permit\)](#), issued by DMF:

Allows an individual to take, land and sell (to a licensed dealer) shellfish and seaworms. A shellfish ID card, from the Division, and town permit are also required.

Person, Natural Person, Private Person, or Individual – shall mean human being. For purposes of this Regulation, any reference to person, natural person or individual shall mean a natural person only and shall not include institutions as defined herein.

Petite Oysters — Aquaculturally reared oysters, whose height (from hinge to shell margin) is between 2.5 and 3 inches.

Planted Areas - Areas in which the Shellfish Department has planted shellfish for purposes of propagation or transplanting.

Poaching — The harvesting of shellfish, illegally, from any area.

Quahog - A marine mollusk of the species *Mercenaria mercenaria*, commonly called the hardshelled clam.

Quart - 67.201 cubic inches (U.S. Dry Measure).

Raking - Gathering oysters and/or other materials using a rake and then transferring this accumulation to a container, vehicle or vessel.

(To) Relay - See **Transplant**

Registered Vessels - Motorized vessels of any size, including those that don't primarily depend on mechanical propulsion, registered with the Massachusetts Office of Environmental Law Enforcement at the Registry and Titling Bureau.

Resident - A person who is domiciled in the Town of Wellfleet for the purpose of establishing legal residency. . Written proof that Wellfleet is the applicant's domicile and legal residence shall be required to the satisfaction of the Shellfish Constable and Selectboard. Domicile will be established after one year of residency in Wellfleet is demonstrated. Proof of legal residence may include voter registration, automobile registration, driver's license, income tax filings, census data, or passport, utility bills, or any combination thereof.

Scallop - A marine mollusk of the species *Aequipecten irradians*, commonly called Cape scallop or bay

scallop. **(To) Scratch** - To harvest clams with the aid of a clam rake.

Seed - Quahogs, with the exception of gems, less than (1) one inch wide, across both valves at the hinge, soft-shell clams less than (2) two inches in length (the largest measurement, 90 degrees from the hinge to outer margin of the shell); oysters, with the exception of petites, less than (3) three inches in height (from hinge to outer margins of the shell), and scallops without a defined annual growth ring.

Seed Permit - See Permit.

Shellfish Constable - See Constable

Softshell Clam (Steamer) - A softshell clam of species *Mya arenaria*.

Shellfish - Softshell clams, whelks, mussels, oysters, snails, quahogs, razor clams (razor fish), bay scallops, sea

scallops, sea clams, and blood arks.

Spat - An oyster or similar bivalve mollusk in the larval stage, especially when it has settled on and attached itself to a surface on which it can then proceed to grow.

Subtidal - The body of water or area below that of mean low water for spring tides; habitats rarely, if ever, completely uncovered by low tides.

Surf Clam (Sea Clam) - A clam of species *Spisula solidissima*.

(To) Take - To harvest.

Taxpayer — An individual who owns residential land in Wellfleet for which they are taxed by the Town. For properties owned by trusts, life estates or other instruments that distinguish between current and future ownership interests, only those with a present right to occupy the property shall be considered owners. In the case of a trust, it shall be the trustees. ~~Employees, officers, directors, and shareholders of corporations, limited liability companies or other similar institutions shall not be considered taxpayers.~~

HMW Comment: I have struck out “residential”. It is possible for a domiciled Person to own intertidal land for which they are taxed who might only be renting their home in Wellfleet. Two grants in the HDYLTA area are privately owned and taxed as commercial property. I confirmed this with Nancy Vaill.

Tongs - A hand-held and hauled implement used for the harvesting of oysters. They have a scissor mechanism to close two baskets upon themselves.

Town - The town of Wellfleet.

Transaction Card - See **Permits**; Shellfish Transaction Card.

(To) Transfer - To grant the right to use a previously established, licensed area, as allowed by MGL Chapter 130: Sections 57 and 58, and approved by a vote of the Selectboard.

Transferee - Person or corporate entity to whom the right to use a previously established, licensed area for aquaculture has been granted by a vote of the Selectboard.

HMW Comment: Include corporate entity here because you can be a sole proprietor - ie the accountable Person named to the grant - of a DBA who is also registered with the State, etc.

(To) Transplant - The moving of shellfish from one area to another.

Undersized Oysters, Quahogs and Surf Clams - Oysters whose greatest length is between 2.5 and 3"; quahogs whose hinge width is between 7/8" and 1"; surf clams whose shell diameter is between 1 1/2" and 5".

Warden - See **Constable**

Waters - Coastal waters, tidal flats, tidal creeks, and all salt or fresh waters within the boundaries of the Town of Wellfleet.

Week - The calendar week commencing at 00:01 A.M. Sunday and ending at 12:00 Midnight Saturday.

Wet Storage - The temporary placement of legally harvested shellfish from an area open to shellfishing onto an area licensed for aquaculture, for the purpose of maintaining their health in an optimal environment or for the purpose of allowing them to purge themselves of sand and other inedible matter, before transporting them to market.

Section 2. Shellfishing Policy for the Town of Wellfleet

Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including

Massachusetts General Law Chapter 130, Code of Massachusetts Regulations 322, and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

To implement this policy, the Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing.

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

Section 3. Informing the Public of Information and Meetings Concerning the Fishery

3.1. Posting of Shellfishing Policy and Regulations

Current copies of this Shellfishing Policy and these Regulations, and any amendments thereto, will be available in the Selectboard's office, the office of the Town Clerk, the Shellfish Department office, and the Wellfleet Public Library. They shall be also posted at the Wellfleet and South Wellfleet Post Offices ([MGL Chapter 130; Section 52](#)), as well as on the official website of the Town.

3.2. Posting of Hearings about Aquaculture Licenses, Held by the Selectboard

As required by [MGL Chapter 130; Section 60](#), all hearings held by the Selectboard for the granting, transferring or renewal of aquaculture licenses must be posted in three public places, and advertised in a local newspaper at least ten (10) days before that hearing is to take place, as well as the Town's web site as soon as the date of the hearing has been determined by the Board. The posting must provide the name of the applicant(s), their residence, and the date of the filing of the application, and the specific location and description of the acreage to be licensed.

3.3. Open Meeting Law

Compliance with [MGL Chapter 30A; Sections 18-25 \(Effective July 1, 2010\)](#) (the Open Meeting Law) and [940 CMR 29.00](#) is required for all municipal meetings, above and beyond the requirements of Sections 3.1 and 3.2.

Section 4. General Regulations (Applying to the Noncommercial and Commercial Shellfisheries As Well As Shellfish Aquaculture)

4.1. Areas Where Commercial and Noncommercial Shellfishing May Take Place (See also Appendixes and Section 8.1 Areas Closed to Dragging and Dredging)

Commercial-only area: north of a line from the seaward end of the breakwater to the easternmost tip of Great Island (with the exception of Chipman's Cove) marked by a red and white striped pole. This area is subject to seasonal restrictions.

Noncommercial-only area: (Area 2, in CCB 11; see Section 4.2) off Indian Neck, south from the Breakwater to the second groin. This area is subject to seasonal restrictions (see Section 5.1).

Commercial and Noncommercial area: includes all the rest of the harbor except buoyed grants. This area is subject to seasonal restrictions

4.2. Area and Boundary Locations (See Appendix A and C for Area Maps and Appendix B for Specific GPS Locations)

4.2.1. Areas

Area 1: All marine waters and intertidal areas north of the No-drag Line, excluding Chipman's Cove.

Area 2: (Within CCB 11.) All marine waters and intertidal areas landward of the area enclosed by the #14 navigational beacon at the seaward end of Indian Neck breakwater to a point near the #12 channel marker and thence inshore to the end of the first groin south of the Burton Baker Landing.

Area 3: All marine waters and intertidal areas in the waters of the Town, excluding Areas 1 and 2.

4.2.2. Boundaries

Blackfish Creek: (Within CCB 14.) All marine waters and intertidal areas enclosed east of a boundary from the parking lot at Fox Island, marked with a striped pole, to the western edge of the house at the northwestern tip of Lieutenant's Island, and north of the Lieutenant's Island Bridge.

Chipman's Cove (within CCB 13): All marine waters and intertidal areas enclosed south of a boundary from the southeastern tip of Shirttail Point to a point on the shore on the other side of the channel, marked with a striped pole, and east of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

Duck Creek (within CCB 13): All marine waters and intertidal areas enclosed north of a boundary from the southeastern tip of Shirttail Point to a point on the shore on the other side of the channel, marked with a striped pole, east of Commercial Street, and south of Uncle Tim's Bridge.

East Side (within CCB 11): From the breakwater at Indian Neck to the Eastham Town Line.

Eastham / Wellfleet Town Line: (Southernmost boundary of CCB 11.) For the purposes of shellfishing, the boundary runs down the middle of Hatches Creek, and westerly from the official boundary marker in Hatches Creek to the Eastham/Wellfleet boundary marker on Billingsgate Island and thence in the same direction to State waters.

Egg Island/Egg Island Channel (within CCB11): Channel and tidal flats south of Power's Landing and Keller's Corner, and north of the block grants.

Herring River (within CCB 12): All marine waters and intertidal areas enclosed west of a boundary from the main flagpole at the Chequessett Neck Club to a point on the tip of Great Island, marked with a striped (candy cane) pole, and south of a boundary determined by the Massachusetts Division of Marine Fisheries, marked with poles on either side of the river.

Inside L Pier (within CCB 13): All marine waters and intertidal area enclosed by the L Pier, and west of a boundary from the southeastern tip of the L Pier to the eastern high point of the Town Boat Ramp.
Main Harbor (within CCB 11): All marine waters and intertidal areas within Wellfleet Harbor, excluding Blackfish Creek, Chipman's Cove, Duck Creek, Herring River, Mayo Beach and South Lieutenant's Island.

Mayo Beach (within CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the main flagpole at the Chequessett Neck Yacht Club to a point on the tip of Great Island, marked with a striped pole, north of the No Drag Line, and west of a boundary from the southwestern tip of the L Pier to a point on the tip of Indian Neck, marked with a striped pole.

South Lieutenant's Island (CCB 11): All marine waters and intertidal areas enclosed east of a boundary from the osprey nest pole on the southern end of Lieutenant's Island to the Eastham/Wellfleet marker in Hache's Creek, and south of the Lieutenant's Island Bridge.

Wellfleet Harbor (CCB 10, 11, 12, 13, and 14): All marine waters and intertidal areas enclosed north of the Eastham/Wellfleet Town Line, and east of a boundary from the Eastham / Wellfleet boundary on Billingsgate Island to the southern tip of Jeremy Point.

West Side (within CCB 11): The portion of the west side of Wellfleet Harbor immediately southeast of the no quahog dredge line (see below), offshore from the area commonly known as Middle Meadow.

No-drag Line:

1: Line extending from the navigational beacon (#14) at the seaward end of Indian Neck breakwater to a point on the tip of Great Island, marked with a striped (candy cane) pole.

2: Line extending from the striped pole on Field Point to the boathouse on Lieutenant Island.

No-quahog-dredge Line: Line extending from a point in Middle Meadow marked with a striped pole, towards the US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach, ending where this line meets the No-drag Line (near the rocks known as Old Saw).

4.3. Landing of Shellfish

Landing of Shellfish: All shellfish harvested in Wellfleet shall be landed in Wellfleet.

4.4. Daily Limit

No permit holder shall take shellfish or other marine organisms in excess of the daily limit. Noncommercial limits (Section 5.3.2); commercial limits (Section 6.3).

4.5. No Same Day Landings in Excess of Daily Limit

No person shall come ashore with shellfish and return to the waters of the Town on the same day for the purpose of taking additional shellfish in excess of the daily permit limit.

4.6. Landing Shellfish Before Shucking

No shellfish shall be brought ashore except in their shells with the exception of sea scallops.

4.7. Daily Time Limits

No person shall harvest, pick, dig, pile, take or carry away any shellfish from the waters of the Town, by any method between one half (1/2) hour after sunset and one half (1/2) hour before sunrise. ([MGL Chapter 130; Section 68](#))

4.8. No Shellfishing Below 28 Degrees Fahrenheit

Except in areas licensed for aquaculture, no shellfishing shall be carried on when the air temperature is below 28 degrees Fahrenheit (2 degrees Celsius), as determined by the Shellfish Constable and as indicated by a buoy displayed on the flagpole next to the Shellfish Office, on the Shellfish Department answering machine and on the Town website.

4.9. Poaching

Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130; and Section 11. 6 Revocation of Shellfishing Permits.)

4.10. Disturbance of Grant by Other Than Licensee

No one may in any way disturb the growth or arrangement of shellfish on a licensed area, or work a dredge, or use any other implements to harvest shellfish, or discharge any substance which may directly injure the shellfish upon a licensed area, or willfully damage, remove or tie up to any of a grant's designating boundary markers, without the express consent of the licensee. No one, while upon or sailing over any such licensed acreage may have overboard any implement for the taking of shellfish, under any pretense or purpose whatever, without the expressed consent of the licensee. (See MGL Chapter 130; [Section 66](#) and [Section 67](#))

4.11. License and/or Permit Required

All persons fourteen (14) years old or older engaged in taking, removing, or having in possession eels, sea worms or shellfish, including soft-shelled clams, quahogs, surf clams, sea clams, razor clams, oysters, mussels, and scallops, taken from the waters of the Town shall have an appropriate license or permit obtained and used only in accordance with all terms, conditions and restrictions.

4.12. Inspection on Demand

All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by the Shellfish Officers, Police Officers or any other duly authorized agents.

4.13. Display of Permit/License

Individuals engaged in shellfishing, eeling or gathering sea worms must have a Town license or permit prominently displayed and show the same on demand to Shellfish Officers, Police Officers or other duly authorized agents.

4.14. Possession of Seed Restricted

No person who does not hold a state propagation permit or an aquaculture license shall have in his or her possession seed shellfish, defined as; quahogs less than one (1) inch wide (thickness of both valves across the hinge); soft-shell clams less than two (2) inches in length; oysters less than three (3) inches in height (except for aquaculture license holders under certain conditions as specified in Section 7.16 (Undersized Oysters, Quahogs and Surf Clams) or bay scallops without a well defined raised annual growth line. A violation of this regulation shall exist if the take contains more than 5% seed shellfish per batch (see Section 7.15 [Shellfish Seed](#)).

4.15. Methods of Harvest

The taking of any shellfish from the waters of the Town of Wellfleet by any method other than those commonly known as handpicking, long raking, bull raking, jerk raking, basket raking, scratching, tonging, digging, dragging or dredging (See Section 8: [Commercial Shellfishing: Dragging and Dredging](#)) is prohibited.

A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area.

4.16. Detrimental Practices of Harvesting by Hand Prohibited

It is prohibited to harvest any species of shellfish in a manner that inhibits the growth or survival of any other species of shellfish.

4.17. Handpicking or Scratching-only Areas

Handpicking, scratching or basket raking are the only permitted methods of harvesting shellfish, north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw, thence in the same direction to Great Island at Mean High Water except when otherwise allowed by the Selectboard. A license holder is permitted to use any approved method of shellfish harvesting within his or her licensed area. (See Appendixes for area maps and GPS coordinates.)

4.18. Transplanting

4.18.1. Transplanting Shellfish Outside of Wellfleet Waters

No shellfish of any size shall be taken out of the Town for the purpose of transplanting or to be placed in any waters outside the limits of the Town without the proper permits.

4.18.2. Transplanting Shellfish Into Wellfleet Waters

No shellfish shall be planted or transplanted into the waters of the Town, without the proper permits, certificates of origin, and approval by the proper authorities.

4.18.3. Harvesting Seed from the Wild Not Generally Allowed

The handpicking of oyster seed from the public resource is prohibited with the following exception: from time to time, under special conditions identified by the Shellfish Constable, recommended by the Shellfish Advisory Board and approved by a vote of the Selectboard, oyster seed may be taken for the purpose of transplantation.

4.19. Areas Restricted to Use by Permit Class

No holder of a commercial permit shall take shellfish from an area reserved for the holders of noncommercial permits and vice-versa.

4.20. Annual Opening and Closing of Scallop Season

Scallop season shall open October 1st and shall close April 1st the following year, except when otherwise regulated.

4.21. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or intertidal Areas, provided that such use is permitted by the Conservation Commission. (See Section 6.5 Use of Motorized Vehicles for Shellfishing.)

Section 5. Noncommercial Shellfishing

5.1. Seasonal Restrictions: Open and Closed Areas

The opening and closing of noncommercial shellfishing areas, as well as catch limits, may be subject to change by vote of the Selectboard. (See Section 5.3.2 Noncommercial Catch Limits) Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Chipman's Cove: closes for the taking of all shellfish on April 30 and reopens on the last Sunday in October, unless otherwise regulated.

Area 2 (Indian Neck): open for the harvesting of shellfish, with the following limits and on the following days, unless otherwise regulated:

- June 1 through September 30; will be open Sundays and Wednesdays, annually.
- October 1 through May 31; will be open seven (7) days a week, annually.

Area 3 (The rest of the Harbor with the exception of commercial-only areas): Open for the harvesting of shellfish on the following days, unless otherwise regulated:

- June 1-September 30; will be closed to all noncommercial shellfishing, annually.
- October 1-May 31; will be open seven (7) days a week, annually. (See Section

4.1.) 5.2. Permits

5.2.1. Eligibility for Noncommercial Permits

Annual and seasonal noncommercial permits may be issued to any person, twelve (12) years of age or older. Veterans of the Commonwealth of Massachusetts are entitled to a fee not greater than the fee charged to residents of the Town of Wellfleet upon presentation of their Veteran ID card. In addition, non-resident employees of the Town of Wellfleet are entitled to one (1) recreational shellfishing permit at the resident rate; this is only valid for the employee him- or herself while currently employed by the Town.



5.2.2. Noncommercial Permit Fee Schedule (amended 12/20/2022: \$10 increase) **Annual Permits** (Jan.1-Dec. 31)

Resident or Taxpayer	70.00
Resident or Taxpayer over 65 years old	30.00
Nonresident or Nontaxpayer	220.06
Massachusetts Resident Veteran Permit*	70.00'
Massachusetts Resident Veteran Permit over 65 years old *	30.00
Town of Wellfleet Employee	70.00
Town of Wellfleet Employee over 65 years old	30.00

	Seasonal	
Noncommercial Permits (June 1— Sept. 30)		

Resident or Taxpayer	50.00
Non-resident or Non-taxpayer	95.00
Massachusetts Resident Veteran Permit*	50.001
Town of Wellfleet employee	50.00

Replacement Fee (for all categories) 30.00

*To enjoy the Massachusetts Veteran Discount, applicants must provide:

1. A Massachusetts license bearing the Veteran seal,
2. A Massachusetts license and a DD-214 form
3. A Massachusetts license and a Veteran **ID** card issued by the U.S. Department of Veteran Affairs

5.3. Noncommercial Shellfishing Regulations

5.3.1. Required Icing and Shading of Harvest in Warmer Weather

During the *Vibrio* control period, as determined annually by the DMF (see 322 CMR 16.00 Shellfish Harvest and Handling) due to concerns about the presence of *Vibrio parahaemolyticus*, oysters taken by noncommercial permit holders shall be put in a container and surrounded by ice made from potable water within two (2) hours of the time when the first oyster (harvested on a given day) is taken from the water **or**, in the case of intertidal harvest, the time of first exposure to the air by tide.

All oysters taken from the water shall be protected from direct exposure to sunlight during harvest and subsequent transport from the harvest area to any destination, at all times.

With the first offense of this section, the harvester will lose his or her catch. With any subsequent offense, the harvester shall lose his or her catch and noncommercial permit for one year.

5.3.2. Cannot Harvest for Commerce

No person holding a noncommercial permit shall harvest shellfish, eels or sea worms for the purpose of sale, trade or other consideration.

5.3.3. Noncommercial Catch Limits

The total amount of shellfish, comprising oysters, quahogs, soft-shell clams or razor clams, blood ark clam or ponderous ark clam taken in one (1) week shall not exceed ten (10) quarts, and the total amount of mussels taken in one (1) week shall not exceed ten (10) quarts, or the total amount of scallops taken in one (1) week shall not exceed one (1) bushel, or the total amount of surf (sea) clams taken in any one (1) week shall not exceed one (1) bushel. The total number of sea worms taken in one (1) day shall not exceed twenty-four (24). There is a 20 lb. limit on the amount of eels that can be taken in one day.

Section 6. Commercial Shellfishing

6.1. Commercial Permits

6.1.1. Eligibility For Commercial Permits

A commercial permit may be issued to any Natural Person fourteen (14) years of age or older, who is a domiciled resident of Wellfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen (14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person's birthday. Residents over 65 may be issued senior permits.

Commercial permits will not be issued to unnaturalized foreign born persons who have not resided in Barnstable County at least five (5) years prior to making application ([MGL Chapter 130; Section 55](#)).

6.1.2. Domicile Requirement and Exception

Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet, with the exception of those who have previously held a commercial permit for at least two (2) years, and who have temporarily lost housing in Wellfleet for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of domiciled residency, as defined in Section 2 of these regulations, and verified by the Shellfish Constable, must be resumed within eighteen (18) months from the time of the permit holder's removal to another town or the permit will then be revoked.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the permit holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

If the permit holder acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen (18) month period for reestablishing residency, the permit will automatically be revoked and the licensee will not be eligible to reapply unless and until they meet the eligibility requirements in Section 6.1.1 and 6.1.3.

6.1.3. Commercial Permit Requirements

Applications for commercial permits will be accepted between December 1 and January 31 and shall subject to a thirty (30) day review of the application by the Shellfish Constable prior to submission to the Selectboard for a vote. Annual commercial permits are valid from Jan. 1 through Dec. 31. Permits will only be issued after the applicant has shown proof of having a valid State commercial permit with a shellfish endorsement and a valid shellfish transaction card from the DMF. [CMR 322 7.01 \(2\) g, i, k](#)

614	Commercial Permit Fee Schedule	<i>t</i>
<i>purchase</i>		
	Resident	\$310.00
	Senior Resident (65 years or older)	\$60.00
	Junior Resident (14-16 years old)	\$110.00
	Eel Permit	\$3.00
	Replacement Fee (for all categories)	\$20.00

6.1.5. Hardship Exemption

The Selectboard may at its discretion grant permits applied for after January 31' if the applicant demonstrates **all three** of the following conditions:

- that unusual circumstances existed **prior to the deadline for applying in that year** which would reasonably excuse a failure to file an application prior to February 1', and
- that a substantial hardship would be caused by the refusal of a permit, and
- that the granting of the late permit would not affect the opportunity of applicants, who have applied in a timely manner, to harvest a reasonable quantity of shellfish.

6.2. Commercial Shellfish Regulations

6.2.1. Required Icing and Shading of Product

Annually, during the period of time that the DMF's *Vibrio* control plan is in effect, harvesters must comply with the State's regulations. (See 322 CMR 16.00 Shellfish Harvest and Handling.) In addition to any other applicable penalties, with the first offense of this section, the harvester will lose his or her product. With any subsequent offense, the harvester shall lose his or her product and license and/or permit for one year.

6.2.2. Harvest Must Be Tagged

At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags.

6.2.3. Minors Under Fourteen (14) Without Permit

Persons under fourteen (14) are permitted to harvest shellfish in a commercial area while under the supervision of a parent or guardian holding a commercial permit. No shellfish may be taken in excess of the daily limit of the permit held by the parent or guardian.

6.2.4. Commercial Catch Limits

6.2.4.1. Bay Scallops

No vessel shall take more than ten (10) bushels (tied) of scallops, including shells. No more than twenty (20) bushels (tied), shells included, shall be taken by any vessel having two (2) or more permit holders on board, in one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.2. Mussels

There is no limit to the taking of mussels per commercial permit per day.

6.2.4.3. Oysters

a. Hand Picking: no commercial permit holder shall take more than five (5) bushels of oysters, including shells, per day.

b. Dragging / Dredging: No more than five (5) bushels of oysters including shells, per commercial permit holder shall be taken by a vessel in any one (1) given day. No more than ten (10) bushels including shells shall be taken by any vessel having two (2) or more commercial permits aboard in any one (1) day. The captain of said vessel shall be cited for each violation.

6.2.4.4. Quahogs

a. Hand Picking: No commercial permit holder shall take by raking more than five (5) bushels of quahogs, including shells, in any one (1) day.

b. Dragging / Dredging: No more than fifteen (15) bushels of quahogs including shells, shall be taken by a vessel having one (1) commercial permit aboard, in one (1) day. Captain of said vessel shall be cited for each violation. No more than twenty-five (25) bushels including shells shall be taken in one (1) day by a vessel having two (2) commercial permits aboard. The captain of said vessel shall be cited for each violation.

6.2.4.5. Razor Clams

No commercial permit holder shall take more than two (2) bushels of razor clams in any one day.

6.2.4.6. Sea Worms

No commercial permit holder shall take more than forty-eight (48) sea worms in any one (1) day.

6.2.4.7. Soft-shell Clams

No commercial permit holder shall take more than three (3) bushels of soft-shell clams in any one (1) day.

6.2.4.8 Blood Ark Clam or Ponderous Ark Clams

a. Hand picking: No commercial permit holder shall take more than 10 (ten) bushels of ark clams, including shells, in any one day.

b. Dragging/Dredging: No more than ten (10) bushels, including shells, shall be taken by a vessel having one (1) commercial permit holder, in one (1) day. No more than twenty (20) bushels, including shells, shall be taken in one (1) day by a vessel having two (2) commercial permit holders aboard, in one (1) day. The captain of said vessel shall be cited for each violation.

6.3. Daily Area Catch Limits - 1 bushel = 32 quarts

Area	Oysters	Quahogs	Soft-shell clams	Blood Ark/ Ponderous Ark Clams
Herring River	1 bushel	1 bushel	1 bushel	10 bushels
Mayo Beach	1 bushel	2 bushels	3 bushels	10 bushels
Duck Creek	1 bushel	1 bushel	1 bushel	10 bushels
Blackfish Creek	1 bushel	2 bushels	3 bushels	10 bushels
Main Harbor	5 bushels	5 bushels	3 bushels	10 bushels
Chipman's Cove	1 bushel	1 bushel	1 bushel	10 bushels
South Lt. Island	1 bushel	1 bushel	3 bushels	10 bushels

6.4. Seasonal and Other Restrictions: Open and Closed Areas

The opening and closing of these areas, as well as catch limits, may be subject to change by vote of the Selectboard. Notification of such changes will be available on the Shellfish Department section of the Town web site and on the Shellfish Department answering machine.

Dragging or diving within 25 feet of all areas licensed for shellfish aquaculture is prohibited.

(See Section 8.9 No Dragging/Dredging Near Licensed Areas)

6.4.1. Chipman's Cove:

- a. Harvest dates: Chipman's Cove will close for the taking of all shellfish on April 30 and will reopen on the last Sunday in October of the current year, unless otherwise regulated.
- b. Landing Sites - All shellfish are to be landed at the end of Old Pier Road, at the Marina boat ramp or piers, or from a point on the road along the southern perimeter of the Cove nearest the harvesting site, unless permitted otherwise by the Shellfish Constable.
- c. Harvesting Restrictions-All shellfish are to be removed from the area at the time of harvest. No shellfish are to be left on the flats and removed at a later time of day, by any means or methods. Diving for shellfish is prohibited.
- d. Spat collection area-An area of Chipman's Cove for placement of oyster spat collection by shellfish grant license holders, approximately 300' by 300' marked by yellow buoys, will be so designated from June 1 through October 31 of current year, unless otherwise regulated.

6.4.2. Duck Creek:

- a. Harvest dates - Duck Creek will open for the taking of all shellfish on December 1 and will close on April 30, pending State approval, unless otherwise regulated.
- b. The taking of shellfish from the bulkheads, pilings and adjacent flats in the area of the "L" pier, behind the fuel dock and inshore of the finger piers near the boat ramp shall be PROHIBITED until further notice.

6.4.3. Herring River

Herring River will be open to shellfishing on a conditional basis as directed by the DMF. The dates of opening and closure will be approved by a vote of the Selectboard
The area is open to the taking of shellfish by Wellfleet Commercial permit holders only. Scuba diving for shellfish is prohibited.

6.4.4. West Side:

The West Side of Wellfleet is open to the taking of shellfish by any means EXCEPT by use of a quahog dredge.

6.4.5. Egg Island:

- a. The north side of Egg Island from the flag pole at Chequessett Country Club easterly to the Town Pier is open year round for the taking of quahogs and oysters.
- b. Diving from a boat is permitted with the usual restrictions and conditions. The use of scratcher and basket rakes and clam hoes will be allowed; no other methods of harvest are permitted. (See also Section 9 **Commercial Shellfishing: Diving for Shellfish**)

6.4.6. Blackfish Creek:

Blackfish Creek will be open year round for the taking of quahogs, soft-shelled clams and oysters.

6.4.7 South Lieutenant Island

South Lieutenant Island will be closed for the taking of oysters from June 1st through September 30th.

6.5. Use of Motorized Vehicles for Shellfishing

6.5.1. Motorized Vehicles on Beaches

Only commercial permit holders or aquaculture licensees may use motorized vehicles on beaches or in

intertidal areas. (See Town of Wellfleet General Bylaws under ARTICLE VII GENERAL - [Section 24. Beach Vehicular Traffic By-Law.](#))

6.5.2. Terms and Conditions for Use of Motorized Vehicles

All use of vehicles to access areas licensed for aquaculture or other areas open to commercial permit holders, shall also be in accordance with the applicable general bylaws of the Town, and conditions, which may be imposed by the Conservation Commission.

6.5.3. Speed Limit on Beaches and Intertidal Areas

No person engaged in commercial shellfishing or aquaculture shall operate a motorized vehicle at a speed in excess of fifteen (15) miles per hour or a motorized vehicle which is dual wheeled or which has a gross vehicle weight (GVW) greater than nine thousand two hundred pounds (9200 lbs.) on any tidal beach or flat or other land below the mean-high water line.

6.5.4. Allowed Line of Access for Vehicles

Persons engaged in commercial shellfishing or aquaculture operating motorized vehicles on any tidal beach or flat or other land below the mean-high water line shall drive only on the foreshore of the tidal area below the high tide line but above the tidal flat, closely rounding every groin or other obstruction extending below the high water line, to a point opposite a licensed area, and thence to the licensed area. The traffic not directed to a licensed area shall be confined to the area below the high tide line above the tidal flat, closely rounding any groin or other obstruction extending below the high water line. Parking is permitted on the licensed area or in the access route to a licensed or legal harvesting area as described above. The use of motorized vehicles above the mean high water line shall be subject to any requirements or limitations imposed by private property owners.

Section 7. Shellfish Aquaculture

7.1. Issuance of Shellfish Aquaculture Licenses (Grants) for Areas Surveyed and Subdivided by the Town. Once areas are identified by the Shellfish Constable as potentially suitable for the location of shellfish aquaculture, and the areas are under the control of the Town, the Selectboard may exercise their discretion as the licensing authority for the issuance of license/s for shellfish aquaculture (grants) in compliance with [MGL Chapter 130](#). The Selectboard shall post notice of the availability and location of such acreage, as well as any applicable conditions and/or limitations upon such acreage, on the Shellfish Department's notice board, at Town Hall and on the [Town Website](#).

7.2. Previously Established Grants that Become Available

In the event that a licensed aquaculture area previously certified by the DMF becomes available, its status shall be posted by the Shellfish Constable (see Section 3; [Informing the Public of Meetings Concerning the Fishery](#)) for a period of 30 calendar days. **During that time frame, the Town will accept applications from Natural Persons whose names do not already appear on other existing licenses, nor who are profit-sharing constituents empowered to make decisions for any corporate entity that already has use of a licensed area, who meet the eligibility requirements in**

Section 7.8.1. If more than one qualified person (as described in Section 1 under Domiciled Resident, and Section 7.8.1 Eligibility Requirements) whose name does not appear on another license applies to hold the license, the Selectboard shall hold a public lottery within 14 days of the close of the advertising period to impartially determine who shall be granted the right to apply for the license. Once chosen, the application will be evaluated in accordance with Section 7.6. Process for Approval of Aquaculture Licenses. The submission of an application or having one's name drawn in the lottery does not guarantee that the application will be granted and the Selectboard reserves the right to reject any and all applications. ~~No shareholder, officer, director or other individual holding a similar position having a different title but exercising a similar role, of a corporation that currently holds an aquaculture license in Wellfleet may apply for such grants.~~

HMW Comment: Gregg had struck this sentence, above. I have provided the stipulation in what's in the first paragraph of this section.. Profit-sharing constituents of a registered corporate entity who influence the management of a grant and who already benefit from the use of a licensed area should not be able to apply these lotteries. So -that doesn't include employees.

Please note that this deleted Section refers to "corporations" (diverse corporate entities are often referred to as corporations) *because there a good many corporate entities now operating in the harbor although only one accountable member of such businesses needs to be named to their grant.*

7.3. Annual License Fee

The annual fee for an aquaculture license to be paid to the Town by each licensee shall be \$25.00 per acre (or portion thereof), as required by MGL Chapter 130; Section 64. Annual fees are due each year by February 28, when annual grant reports are due.

7.4. Location of Areas Licensed for Aquaculture (Grants)

Grants may be located in the following areas:

Area 1: On tidal flats off Mayo Beach and Chequessett Neck from the eastern boundary of the Town property at Powers Landing to the Town Pier and at least three hundred (300) feet northward of a line from the seaward end

of the Breakwater to the easternmost tip of Great Island, except in the area above mean low water on Egg Island.

Area 2: On tidal lands lying north and easterly of the Breakwater and of the northerly tip of Indian Neck.

Area 3: On tidal lands off Indian Neck from Omaha Road south to the eastern tip of Field Point.

Area 4: On tidal lands off the westerly side of Old Wharf Point and at the entrance to Loagy Bay.

Approval of the proposed licensed area shall be determined by the Selectboard with appropriate regard for reasonable navigational and recreational interest in the areas concerned.

7.5. Conditions for Use of Area Licensed for Aquaculture

The Selectboard may license specific areas beneath the waters of the Town to Natural Persons for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of [MGL Chapter 130](#), those set forth in current regulations of the Division of Marine Fisheries, these regulations or other town bylaws, as well as any specific conditions or restrictions set forth in the license by the Selectboard.

This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish is prohibited. . This license does not authorize any entry upon or damage to private property or other violation of private rights. The issuance of this license is not a determination of title or ownership. The licensee acknowledges that it is the responsibility of the licensee to obtain permission from the property owner before exercising the rights conferred by the license. The license holder is on notice that the owners of the property described in the license may nevertheless bring an action for trespass in a court of competent jurisdiction if permission is not secured. A license holder may not rely on this license as a defense to an action in trespass. (MGL Chapter 130; [Section 57.](#))

7.5.1 Access to Areas Licensed for Aquaculture is Required

There will be permitted and designated access to all licensed acreage. The method or methods of access shall be precisely specified in the text of the aquaculture license (grant) granted by the Selectboard.

Access to grants over private property shall be subject to the discretion of the private property owner and may be prohibited or restricted.

7.5.1.1. Vehicle Access to Grants

Vehicle access will only be allowed when:

- a. Town roads and Town landings are used;
- b. The owners of private roads to be used have agreed to the use;
- c. The specific route of entry from the roadway onto the beach and flats is approved and conditioned by the Conservation Commission.

7.5.1.2 Non-vehicular Access to Grants

Access by foot and/or boat shall be designated in the aquaculture lease, in all cases in which vehicle access is not possible or permitted.

7.6. Process for Approval of Aquaculture Licenses

The Selectboard shall accept and process applications for area licenses in accordance with [MGL Chapter 130; Section 57](#), and the application procedure of the Town.

7.6.1 Application Procedure

This procedure applies to new grant applications, applications for extensions to current grants and grant renewals and transfers. All Applicants, including applicants for renewal of existing grants, must meet the eligibility requirements in Section 7.8.1 Eligibility Requirements. In addition, current license holders applying for renewal, to be added to another grant or applying for extensions of existing grants must have complied with all Town of Wellfleet Shellfishing Policy and Regulations for at least three (3) years

preceding the application for each grant license to which the applicant is named. These include but are not limited to: Section 7.3 Annual License Fee, 7.12 Evidence

of Productivity: Use It or Lose It, 7.13 Annual Report, 7.14 Annual Inspection of Each Grant, 7.15.1 Required State Seed Propagation Permit and 7.19 Aquaculture Gear and Equipment. If applicant meets all criteria outlined above, then the following is required:

1. Fill out an aquaculture license application and get Shellfish Constable signature. Applications available at Shellfish Department offices.
2. Go over the Checklist for Aquaculture License Applicants with the Shellfish Constable, who shall provide any additional documentation required, such as a form for a Five-Year Business Plan and a template for a letter to the Selectboard.
3. For new grants and extensions:
 - a. Determine whether property owner permission is needed, and if so, obtain written permission.
 - b. Schedule a site visit with Shellfish Constable and Harbormaster to assess the area, ensure the shellfish growing area has an appropriate classification for aquaculture, review approximate coordinates for the new grant boundaries and discuss any potential conflicts. The applicant should include the proposed coordinates and map in the documentation provided to the Shellfish Constable for the Selectboard.
 - c. Have Harbormaster review proposal with regards to reasonable navigational and recreational interests in the areas concerned. (See 7.4 Location of Areas Licensed for Aquaculture (Grants).)
4. If the application is complete, including payment of all applicable fees, the Shellfish Constable will request that a public hearing be placed on an upcoming Selectboard meeting agenda and contact the Principal Clerk for advertisement and posting.
5. The Shellfish Constable shall write a letter of recommendation or concern and shall provide all relevant grant application documents for the Selectboard hearing by the meeting packet deadline.
6. By or before the date of posting the public hearing, the Shellfish Department shall make contact with and provide notification of the date of the hearing to applicant, the Harbormaster and to intertidal abutters who share boundaries with the proposed site, or who are otherwise adjacent or substantially affected by the change in area, as determined by the Shellfish Department.
7. No public hearing will be conducted until the Shellfish Constable receives the complete written application with all required documents and payment of applicable fees. The Selectboard shall determine the outcome of the application and issue a decision.
8. Upon approval by the Selectboard and after the Massachusetts Division of Marine Fisheries biological survey, the applicant must simultaneously
 - a. have the new site professionally surveyed and supply the Shellfish Department with all boundary coordinates in decimal-degrees, and
 - b. start the state and federal permitting process, including, but not limited to, applications for MEPA (MA Environmental Policy Act) if area is a half acre or larger, Notice of Intent (Wetlands Protection Act filing), Chapter 91 authorization, eligibility under the Army Corps General Permit, etc. For more details, visit: <https://www.massaquaculturepermitting.org/>
9. Before the applicant can begin to use the site, they shall be required to clean up and remove all old and/or derelict aquaculture gear that may have accumulated on the site as per Section 7.19.4 Removal of Damaged Gear or Equipment and shall have a grant inspection by the Shellfish Department to confirm its readiness.
10. All application requirements shall be at the Applicant's sole cost and expense.

7.7. Moratorium on Aquaculture Licenses

The Selectboard may at a duly advertised public hearing declare a moratorium (a time-specific closure) on license approvals at any time this action is deemed appropriate and in the best interests of the fishery and the environment.

7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: Licenses shall only be issued to Natural Persons who are Domiciled Residents (See Sec.1 Definitions) of the Town, 18 years of age or older, who hold valid Commercial

Shellfish Permits, and who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the

Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant may be disqualified if they have been found responsible for one or more violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

7.8.2. Domicile Requirement and Exception

At such time as a licensee ceases to be a domiciled resident of the Town, that individual shall be removed from the license and the license shall be deemed revoked unless other eligible licensees remain on the license. This section shall not require removal or revocation in the event of loss of housing for reasons clearly beyond individual's control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section 1 of these Regulations (Definitions), must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the licensee's removal to another town, or the licensee will be removed from the license and the license shall be deemed revoked unless other eligible licensees remain on the license.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the licensee shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the licensee fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

If the licensee acquires an aquaculture license or commercial shellfish permit in another municipality during the eighteen (18) month period for reestablishing residency, the licensee will automatically be removed from the license, and the license will be revoked if there are no other eligible licensees, and the licensee will not be eligible to reapply unless and until they meet the eligibility requirements in Section 7.8.1.

The status of all other licensees named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole licensee, then the license shall be revoked.

7.8.3. Renewal of Aquaculture Licenses

The initial term for a new license shall be two (2) years. Provided appropriate effort has been demonstrated, as required in Section 7.12, and the licensee continues to meet the eligibility requirements in Section 7.8.1, the first renewal of a license may be for five (5) years, unless the licensee agrees to a shorter term. Subsequent renewals may be for ten (10) years, unless the licensee agrees to a shorter term. Renewals may be requested and acted upon only during the twenty four (24) months immediately prior to the expiration date of the current license. The renewal period shall begin on the expiration date of the existing license. Renewal applications will be processed in accordance with Section 7.6.1.

7.8.4. Limit on Individuals Licensed to Use a Grant

Licenses issued under [MGL Chapter 130; Section 57](#) by the Selectboard of the Town of Wellfleet may be issued to up to four (4) individuals, 18 years of age or older, meeting the requirements set forth Section 7.8.1. The Selectboard will not recognize more than four (4) individuals as licensees on any one license. Each individual who is licensed to use an area for aquaculture must acknowledge and approve the addition of any person who subsequently applies to be included on that license.

7.8.5. Working of Grants by Non-Licensees

Licensees may employ or use the services of non-licensed individuals to work their Licensed Areas.

All individuals authorized by a Licensee to work the Grant must be registered with the Shellfish Department and be approved in writing by all Licensees on the Grant

Persons authorized to work in a Grant area shall do so only in their individual capacity and shall not act on behalf of or be employed by any Institution that participates in the shellfish industry, unless it is an Institution formed by a licensee for the purposes of facilitating their work on the Grant.

Licensees are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their registration. When more than one licensee has been granted a license for the same acreage, each licensee is responsible for the actions of persons working the grant.

23

7.8.6. Limit on Size of Grant

No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each person named on a license as a licensee shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individuals holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage.

7.8.7. Grants Established Before August 1, 1993

Any license/s issued prior to August 1, 1993, the date on which the Selectboard established the maximum size of seven (7) acres for an aquaculture holding, will remain valid, and will be allowed to continue using the entire Licensed Area until the end of the license term, subject to all other terms and conditions of the License and this regulation, as may be amended from time-to-time. Any renewal of such licenses shall not be subject to the seven acre rule but shall be subject to all other terms and conditions in this regulation, as may be amended from time-to-time. If any such license is surrendered, transferred or revoked, it will be subject to the seven acre rule. .

7.8.8. Aquaculture Research and Development Projects

7.8.8.1. License for Aquaculture Research and Development

The Selectboard may issue a license to an individual or an institution (including a corporation) which proposes to conduct aquaculture research and development projects if environmentally appropriate, in the best interests of the town, and beneficial to the aquaculture industry.

7.8.8.2. Initial Term of License

The initial term of a research and/or development license shall not exceed two (2) years. The license may then be renewed for a period of up to eight (8) years, for a total maximum of ten (10) years.

7.8.8.3. Plan of Project

The applicants shall provide a plan of the project including all aspects of the management and operations of the project to the Selectboard, the Shellfish Constable and the Division of Marine Fisheries.

7.8.8.4. Dissemination of Data and Results

All data and subsequent results and analyses of the project shall be made available to the Selectboard, the Shellfish Constable, and the Division of Marine Fisheries at predetermined times to be established in the license.

7.8.8.5. Excess Product Returns to Town

Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development specified in Section

7.8.8.6. License for Aquaculture Research and Development shall be turned over to the Town of Wellfleet annually, for appropriate use by the Shellfish Department.

7.9. Rights of Use Subletting and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual may use the license without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter [130](#); [Section 57](#), [Section 63](#) and [Section 67](#).)

Licensees may transfer the rights or responsibilities assigned to their license to any other Natural Persons by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area, provided that the individual meets the eligibility requirements in Section 7.8.1. (See MGL Chapter 130; [Section 58](#) and Section 7.8.3 Limit on Individuals Licensed to Use a Grant.)

Licensees shall not sublet their Licensed Area to any other person or institution. For purposes of this regulation, a subletting arrangement will be considered to exist if anyone other than the Licensee is permitted to remove product from the Licensed Area and retain it for their own use or the use of another without first turning it over to the Licensee.

7.10. Inheritance of Rights to Use an Aquaculture License

Upon the death of a licensee, The immediate family of the deceased licensee may continue to use the license, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. For purposes of this section the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of said deceased licensee. Such persons shall not be required to meet the eligibility requirements in Section 7.8.1, with the exception of the natural person and commercial shellfish permit requirements. Upon the expiration of the term or the one year period, whichever is later, the license shall be deemed surrendered if it is not transferred to a Natural Person meeting the eligibility requirements in Section 7.8.1.

7.11. Liability of the Town

The Town will not be held liable for any damage to a licensed area, or gear, or stock thereon, by reason of any dredging or other harbor improvements undertaken by the Town.

7.12. Evidence of Productivity: Use It or Lose It

7.12.1. Minimum Levels of Investment and Production

There shall be minimum levels of investment and production required in order to retain an area license. These shall be:

- a. During the first, second, and third year after the date of issuance of the license a minimum of \$1000 per acre shall be spent on seed and gear for the area and it shall be evident that this effort of improvement has taken place. Any licensed area that is less than one acre shall be prorated.
- b. During the fourth year and every year thereafter there shall be a minimum production of an average of \$1000 worth of product per year per acre, or prorated for a portion thereof, from the practice of aquaculture on the licensed area. This shall be demonstrated by the annual grant report, and, if so requested by the Shellfish Constable, copies of transaction receipts or other acceptable documentation. (See MGL Chapter [130,Section 64 Annual fees for license.](#))
- c. [These requirements apply to the Licensed Area as a whole and not the individual licensees.](#)

7.12.2. Failure to Meet Production Levels

Failure of the licensee/s to meet the specified production level for any three (3) consecutive years may result in the forfeit of the aquaculture license and licensed area, as stated in [MGL Chapter 130; Section 65.](#)

7.12.3. Waiver of Production Requirements

The Constable shall have the right to waive the minimum production requirements when there is evidence that the failure to meet the minimum standard is due to events beyond the control of the license holder.

7.12.4. Extension of Licensed Area (Grant): Investment and Production

In the event of an extension being granted to a presently licensed area, the same level of effort per acre for the newly licensed, abutting section is required as described above in Sections 7.12.1 Minimum Levels of Investment and Production and 7.12.2 Failure to Meet Production Levels.

7.13. Annual Report

7.13.1. Due Date

Licensees shall file annual reports under oath, on their activities in accordance with [MGL Chapter 130; Section 65](#) on or before February 28 of the following year. The report must include any changes or deviation from the original plan filed with the original application or any subsequent application.

7.13.2. Penalization for False Report

Any licensee who submits a false licensed area report in violation of [MGL Chapter 130; Section 65](#) shall be penalized by the revocation of his or her license.



7.13.3. Notification of Failure to Meet Minimal Requirements

Subsequent to the filing of the annual report, the Constable will notify any license holder who, in the opinion of the Constable, has failed to meet the minimum requirements. The license holder(s) may appeal the Constable's decision to the Selectboard within 30 days after notification. The Selectboard shall hold a public hearing within 30 calendar days of receipt of said appeal. If no appeal is filed on a timely basis, the license will be forfeited.

7.14. Annual Inspection of Each Grant

The Shellfish Department shall make no less than one visit per year to the site of each licensed area in the company of the license holder.

7.15. Shellfish Seed

7.15.1. Required State Seed Permit

No person shall harvest, plant, transplant, transport, sell or otherwise have in their possession seed shellfish, without first obtaining a state seed permit from the Massachusetts DMF, as required by [MGL Chapter 130, Section 80](#) and [CMR 322, Section 15.04\(b\) 1](#)

7.15.2. Special Circumstances for Taking of Seed

From time to time, with the approval of the DMF and the Selectboard, the Shellfish Department may open up an area for the taking of oyster seed only by aquaculture licensees who hold a seed permit.

7.15.3. Use of Spat Collecting Devices

The use of spat collecting devices such as Chinese hats to catch oyster larvae in areas not licensed for aquaculture, may only be done by commercial permit holders who also hold a seed permit (Section 1, Definitions). During this period, catching oyster larva with such devices is legally considered to be fishing, not farming and the devices are classified as fishing equipment, not growing devices. All devices used in the collection of spat must be tagged with the name of the grant holder and phone number. From time to time, upon receiving a recommendation from the Constable, the Selectboard may vote to limit the areas in which such fishing is allowed or the numbers of Chinese hats or such other devices that may be set out by individuals in these same areas.

7.15.4. Catch Limit for Seed Specified on Permit

No license holder in any one calendar year may take, or cause to be taken, more than twenty-five (25) bushels of seed oysters per acre of licensed area or fraction thereof, pro rated at that rate.

7.15.4. No Seed Harvested by Dragging

No person shall harvest shellfish seed by dragging, except by the licensee within the boundaries of his or her licensed area.

7.16. Undersized Oysters, Quahogs and Surf Clams

7.16.1 Containers Holding Undersized Shellfish Must Be Tagged

All containers that hold market-bound, aquaculture-raised shellfish whose size is less than that allowed by the State when that species is harvested from the wild (petite oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8" and 1", or surf clams whose shell diameter is between 1 1/2" and 5") must be tagged with the words "AQUACULTURE-RAISED" or "FARM RAISED".

7.16.2 Sale Only from Grower to Primary Buyer

The primary sale of undersized, aquaculture-raised (oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8 and 1", and surf clams whose shell diameter is between 1 1/2 and 5") must only be between the aquaculturists or their licensed employee, and a licensed wholesale dealer that is also a "primary buyer of shellfish". If the aquaculturist is also licensed as a primary buyer, they may be considered as the primary buyer of their own product.

7.16.3 Petite Oysters

An aquaculture license holder may harvest and sell farm-raised petite oysters whose greatest length is between 2.5 and 3 inches both in and out of State.

7.16.4 Undersized Quahogs aka "Gems "or "Vongeles"

An aquaculture license holder may harvest and sell farm-raised quahogs whose hinge width is between 7/8" and 1" if:

- a. they are sold only to primary buyers on the inter-state shippers list that distribute them out-of-state. The in-state distribution of aquaculture farm raised quahogs whose hinge width is under 1" is prohibited;
- b. they have documented proof of purchase of seed;

7.16.5 Undersized Sea/Surf Clams aka "Butter" Clams

An aquaculture license holder may harvest and sell farm-raised surf clams whose shell diameter is between 1 1/2 and 5" both in and out of state if:

- a. They have documented proof of purchase of seed.

7.17. Transfer of Oysters to Wholesale Dealers Trucks During Vibrio Control Season:

All such transfers shall be done according to [CMR 500.021](#) and the variance granted to the Town by MDPH/BEH for the years 2018-2020, as authorized on May 1, 2018. A copy of this variance is available to the public on the Town's Shellfish Department [website](#).

7.18. Predator Control

7.18.1. No Lethal Predator Control Measures

Unless specifically authorized by the Director, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, it shall be unlawful to use lethal means to control or exclude predators or other organisms from any area used for aquaculture. Non-lethal enclosures, including, but not limited to, nets, fences, bubble curtains and noise may be used, if approved for a specific site and purpose. Invertebrate predators, pests and fouling organisms may be removed manually from an aquaculture site and disposed of in a lawful manner ([CMR 322, Section 13.7.2](#)).

7.18.2. No Taking of Horseshoe Crabs or Whelks/Conks Without Permit.

Being in possession of horseshoe crabs and whelks (conchs) for any reason requires a State permit. In this regulation, whelk/conch refers to either knobbed whelk (*Busycon carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See [CMR 322 6. 34: Horseshoe Crab Management](#) and [322 CMR Section 6.21: Minimum Size for Conch.](#)) As stated in 7.17.1, neither species shall be intentionally killed while practicing predator control.

7.18.3. No Harm to Endangered Species

No person shall maintain a predator control method that will intentionally threaten any endangered species.

7.19. Aquaculture Gear and Equipment

7.19.1. Grants Shall Be Marked

Every licensee shall mark the corners of the area licensed under their license with buoys marked with the license number. From April 1st to November 1st, the corners shall be marked with fluorescent yellow balls, at least twenty (20) inches in circumference. Buoys shall be attached to their anchor by cables, chains or non-floating lines. Numbers shall be marked on said buoys, and shall be at least two (2) inches high and shall be black in color. Temporary buoys shall be required from November 1 through April 1.

7.19.2. Height and Arrangement of Equipment

With the exception of spat collection devices there shall be no equipment or gear made of metal that rises

more than eighteen (18") inches above the grade, and equipment or gear made of plastic (or another equally flexible material) higher than twenty-four (24") inches above the grade, within the boundaries of a licensed area.

7.19.3. Marking of Gear

Every licensee shall clearly and permanently mark any and all trays, boxes, holding cars and all other aquaculture gear with the license number of the license area in a manner that is clearly visible.

7.19.4. Removal of Damaged Gear or Equipment

All equipment or gear which is either damaged, or can no longer used as it was originally designed or intended to be used in the opinion of the Constable, must be removed from a licensed area and either disposed of properly or moved to an appropriate site not located within a protected resource area. This includes, but is not limited to, loose nets, twisted and damaged racks, loose envelopes, grow-out bags and fastening devices.

7.19.5. Overwintering of Equipment on Grants

Racks, rebar or u hooks used to secure nets on a licensed area must either be securely fastened to within two to four inches (2-4") of the bottom or removed by January 15, or before ice prevents removal, whichever comes first, as specified in overwintering agreement. Any licensee who wishes to overwinter racks on their grant must obtain and sign an agreement form available from the Shellfish Department. All gear left on any grant must be tagged as per Section 7.19.3. In parts of the harbor where there may be a risk of silt covering overwintered racks on a licensed area, the Constable may waive the height requirement in 7.19.5 after a visit to the specific site and documenting the adjustment on the Agreement Form.

7.19.6. Fines for Gear Violations.

Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a fifty-dollar ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

7.20. Buffer Zones

There shall be a buffer zone contiguous with the perimeter of any licensed area that is either twenty-five (25) feet wide, or one half the distance to the adjacent licensed area if less than fifty (50) feet, except where two (2) licensed areas abut. It is the responsibility of the license holder/s to keep this area clear of any equipment or gear owned by the licensee/s.

7.21. Exception to Hours of Operation

As required in Section 4.7, no license holder shall harvest, dig, pile, take or carry away any shellfish or shell during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise by any method whatsoever. In the event of impending natural emergencies due to storms, ice or the like, and only after notifying the Shellfish Constable, a licensee may engage in securing stock and gear during this time period. Licensees must notify the Shellfish Constable in advance of their intention to empty seed trays and plant out seed at such times when the extreme tides needed to conduct such activities occur during this time period.

7.22. Hydraulic Harvesting of Shellfish from Grant Areas

The use of hydraulic harvesting gear for the purpose of harvesting shellfish from within the boundaries of a licensed area is permitted under the following conditions and with the following restrictions:

- a) Devices used shall be for the hosed ejection of water under pressure into a shellfish bed;
- b) Pressure pumps shall not exceed five (5) horsepower as rated by the manufacturer;
- c) Noise control devices (i.e. mufflers) shall be in place and in good repair at all times;
- d) Not more than one device may be used on any grant at any time;
- e) Hours of operation shall be between 7:00 a.m. and 1/2 hour before sunset;
- f) The Shellfish Constable shall have the authority to direct an individual involved in the use of such equipment to cease and desist if the Constable feels that there is a problem that necessitates such action. Any individual so ordered shall have the right to appeal the Constable's decision to the Selectboard, at their

first scheduled meeting after the service of such order.

7.23. Extension of Acreage Without Permission and Resolution of Boundary Disputes

Boundary points will be provided by the Town of Wellfleet to all license holders in their license documents, and the Town's boundary points will be considered the only valid points to be used to define each grant's boundaries. No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. In the event that the assigned boundaries of an aquaculture license are called into question, the holders of the grants in dispute may work with the Shellfish Constable to try and resolve the dispute using the town's boundary points and technology, and surveys of shellfish grants on file with the Town. If the parties are unable to resolve the boundary dispute with the Shellfish Constable, the complainant grant holder and/or the Shellfish Constable shall cause the licensed area(s) to be re-surveyed by a registered civil engineer at the complainant grant holder's(s') expense. The professional land survey(s) shall be submitted to the Selectboard, who shall issue a determination on the boundary dispute and, if necessary, adjust the aquaculture license(s) affected thereby accordingly. If a willful violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked by the Selectboard, following a public hearing.

Section 8 Commercial Shellfishing: Dragging and Dredging

8.1. Areas Closed to Dragging/Dredging

No vessel shall operate a drag or dredge north of a line (commonly known as the "no drag line") extending from the seaward end of the Indian Neck Breakwater (see Appendix for coordinates to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Waters.

No vessel shall operate a drag or dredge east of a line extending from the candy pole on Field Point to the boat house on Lieutenant Island (Blackfish Creek No-drag Line), or within one hundred (100) feet of properly marked grants in that area, with the exception that a license holder may drag over his own grant. (See Appendices for maps and coordinates.)

8.2. One Drag/Dredge at a Time

No vessel which operates a drag or dredge shall have more than one drag or dredge in the water in use, at any time.

8.3. Size of Drag or Dredge

No drag or dredge with or without teeth having a width greater than fifty (50) inches shall be used in Wellfleet Harbor. Any drag or dredge used for the purpose of taking oysters, shall have exposed teeth at least one and one half inches in length (1 1/2") as measured from the bottom of the bar, and separated by no more than four (4") inches along the entire exposed portion of the bar which must be in contact with the bottom.

8.4. By-catch Limited to 20%

No vessel shall land more than twenty per cent (20%) of the permitted daily catch of any species of shellfish, as by-catch, other than such species which the gear used is designed to harvest.

8.5. No Hydraulic Harvesting

Hydraulic harvesting of shellfish from vessels is not allowed.

8.6. Commercial Permit Required for Dragging/Dredging

The owner or operator of a vessel engaged in commercial shellfishing in the waters of the Town involving the use of a drag, dredge or other mobile gear, shall hold a valid Town of Wellfleet Commercial Shellfish Permit.

8.7. Vessels Must be Registered/Documented

Any vessel used for commercial shellfishing in the waters of the Town employing (over the side) a drag, dredge or other gear designed for the taking of shellfish must be registered and/or documented as having Wellfleet as port of origin. The owner of said vessel found in violation of this regulation shall be fined for each violation.

8.8. Landing of Catch

All draggers engaged in shellfishing must land all catch at the Town Pier.

8.9. No Dragging/Dredging Near Licensed Areas

Dragging or dredging within 25 feet of a licensed area is prohibited, except as otherwise noted. (See Section 8.1. Areas Closed to Dragging and Dredging.)

Section 9 Commercial Shellfishing: Diving for Shellfish

9.1. Areas where Diving is Allowed

9.1.1. South of the No-drag Line

A commercial permit holder may harvest shellfish by diving from April 1st to October 1st, in the area south of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at Mean High Water, south to Eastham/Wellfleet town line.

9.1.2. North of the No-drag Line

When recommended by the Shellfish Department and approved by the Selectboard, divers may harvest shellfish from the waters north of a line extending from the seaward end of the Indian Neck Breakwater to the large rock called Old Saw (a.k.a. Egg Island Rock) thence in the same direction to Great Island at mean high water, excluding the Herring River. (Area CCB 12).

9.2. No Diving Near Licensed Areas

No person may dive within one hundred (100) feet of any properly marked licensed shellfish area except for license holders diving on their own licensed areas.

9.3. Flag Requirements

All divers and snorkelers shall display a "diver down" flag or other flag when in the water, and must stay within one hundred (100) feet of said flag.

9.4. Daily Diving Limits

Divers with commercial permits are subject to the same daily permit limits as handpickers with commercial permits. Divers with noncommercial permits are subject to the same daily permit limits as handpickers with noncommercial permits.

9.5. No Diving in Channel

No commercial permit holder shall harvest shellfish by diving within the buoyed channel.

Section 10 Eeling

10.1. Eeling Permit Required

No person shall harvest, remove, or catch eels from the waters of the Town without having first obtained an eeling permit from the Town.

10.2. Fykes Not Allowed

No eels shall be taken within the Town by the use of a fyke,

10.3. No Taking of Glass Eels

Taking of glass eels is prohibited.

10.4. Examination of Catch

On the demand of the Shellfish Constables, Police Department or other agent duly authorized by the Selectboard, every permittee shall display in full view his entire catch of eels for examination.

10.5. Catch Limits

Permits for the catching or taking of eels from the waters of the Town shall be issued to domiciled residents for the taking of not more than twenty (20) pounds of eels in any one (1) day.

Section 11 Enforcement

Enforcement protocols and penalties for specific infractions may be found in other sections of these regulations, including:

5.3.1 Required Icing and Shading of Harvest in Warmer Weather

6.2.1 Required Icing of Product

6.2.3. Commercial Catch Limits

7.7.13.2. Penalization for False Report

7.12.2. Failure to Meet Production Levels

7.13.3. Notification of Failure to Meet Minimal Requirements

7.18.6. Fines for Gear Violation

7.21. Hydraulic Harvesting of Shellfish from Grant Areas

7.22. Extension of Acreage Without Permission

8.7. Vessels Must Be Registered/Documented

11.1. Enforcement Personnel

These regulations shall be enforced by the Wellfleet Shellfish Constable, Deputy Shellfish Constable, The Wellfleet Police Department (including Special Police Officers) or any duly authorized agent of the Selectboard. Failure to adhere to these regulations can result in fine, suspension or loss of permit, or suspension or loss of license, or all three.

11.2. Penalties for Poaching or Theft

A licensee may in tort recover treble damages of any individual who, without his or her consent, unless otherwise authorized by law or lawful regulation to do so, takes shellfish or equipment from the licensed area during his or her term of use.

(See Sections 4.9 Poaching or Disturbance of Grant and MGL Chapter 130; [Section 63](#) and [Section 67](#) .)

11.3. Authority to Revoke Aquaculture License

The Selectboard or the Director of the Division of Marine Fisheries may revoke an area license in accordance with the provisions set forth in MGL Chapter 130, Sections [57](#) & [65](#). In the event that a license is revoked, for reasons other than loss of Domiciled Residence, that individual may not possess seed nor harvest shellfish from any licensed area in the Town.

11.4. Non Criminal Disposition

Enforcement shall include without limitation the noncriminal disposition procedure provided in [MGL Chapter 40; Section 21D](#)

11.5. Penalty Fees

The penalties for violation of any of these regulations shall be assigned by the Shellfish Department and shall consist of a fine of \$50 for the first offense, a fine of \$150 for the second offense, and a fine of \$300 for the third offense. In the event of a fourth offense within a period of 5 years, the license will be subject to revocation. .

11.6. Duration of Shellfishing Permit Suspensions

Holders of Wellfleet shellfish permits shall have their permit suspended by the Selectboard for a period of not less than three (3) days nor more than fourteen (14) days for the first offense, suspended for not less than thirty

(30) days nor more than sixty (60) days for the second offense, and suspended not less than ninety (90) days for the third offense. In any instance where the permit was due to expire during the proposed suspension period, the suspension may be invoked during the next calendar year. Additionally, the beginning date of the suspension shall be determined by the Selectboard.

11.7. Revocation of Shellfishing Permits

The Selectboard reserves the right to revoke any such permit for particularly egregious violations and/or a pattern of abuse of these regulations. In the event that a permit is revoked, that individual may not harvest shellfish in the Town nor be aboard any vessel which is actively engaged in shellfishing until their permit is restored, with licensed areas being the only exception. A public hearing must be held within 30 days to allow a permit holder to appeal the revocation or suspension of said permit.

11.8. Acceptance of Suspension Without Request for Appeal

The enforcing officer may offer the offender of any of these regulations the opportunity to immediately accept the suspension of his or her permit for the minimum specified time to begin the following calendar day. In this case, the offender must surrender his or her permit and agree in writing to the suspension. Acceptance or rejection of this offer will in no way affect the disposition of the fine.

11.9. Disposition of Unlawful Catch

The enforcing officer may, at his/her discretion, seize and dispose of any unlawful catch as per [MGL Chapter 130; Section 12.](#)

11.10. Prior Terms Revoked

All regulations and specifications made prior to the date of acceptance of these regulations are hereby revoked; with the exception that nothing in these regulations shall be deemed to affect the validity, conditions, or terms of any license granted under the corresponding previous regulations of the Town until the expiration of such license.

11.11. Severability Clause

If any provision of these regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these regulations shall continue in force and effect.

Massachusetts Division of Marine Fisheries - Designated Shellfish Growing Area

Shellfish Area Classification			
	Approved		Conditionally Restricted
	Conditionally Approved		Prohibited
			Restricted Management Close

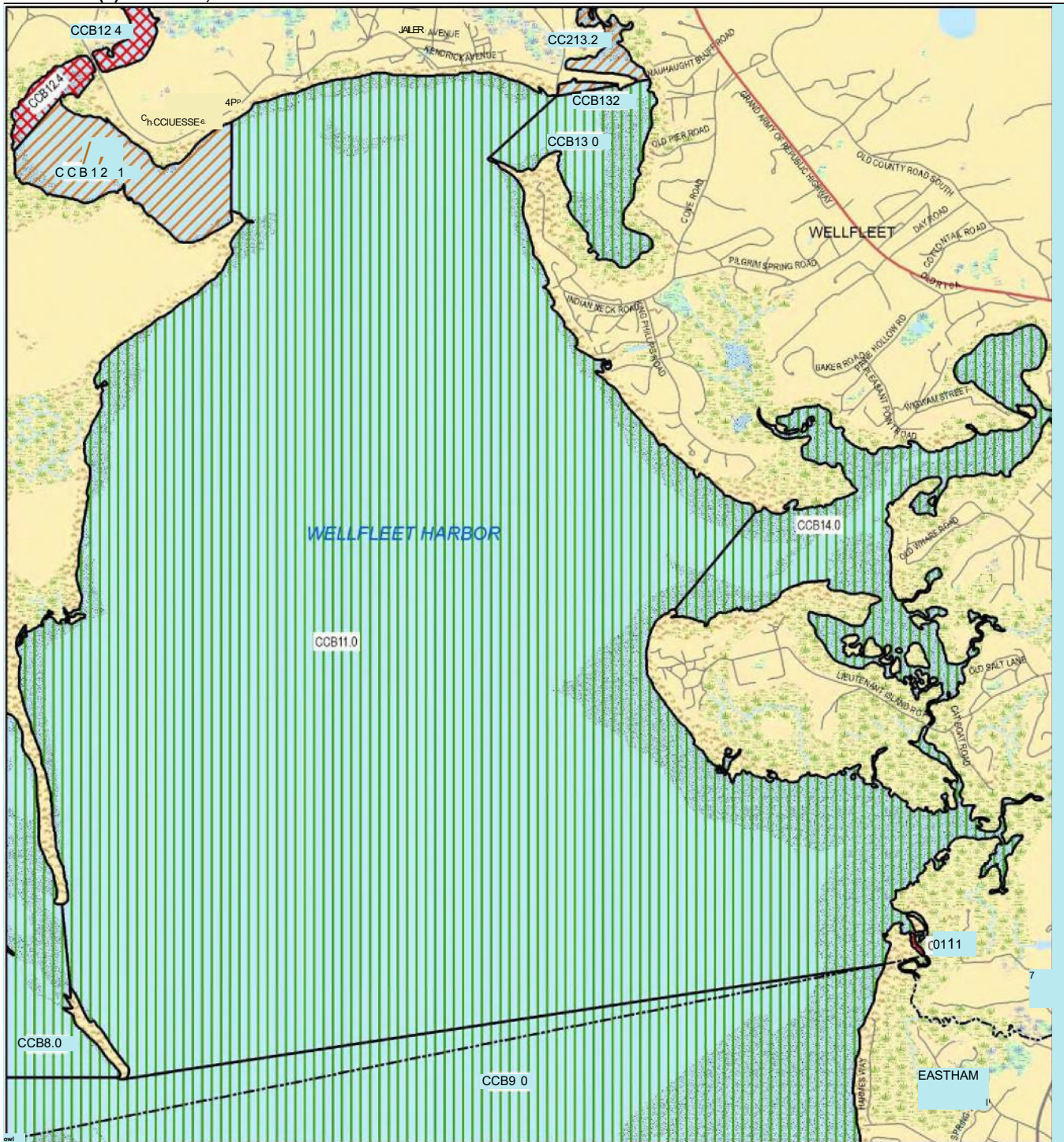


Map Features Legend	
	MUNICIPAL BOUNDARY
	Cranbury Beg
	R/Servuir
	Bolt Marsh
	kte Tidal Flat/N.
	Maral*Beg

Produced: Sep. 10, 2009

Growing Area Code: CCB11
Area Name: WELLFLEET HARBOR
Area Town(s): Eastham, Wellfleet

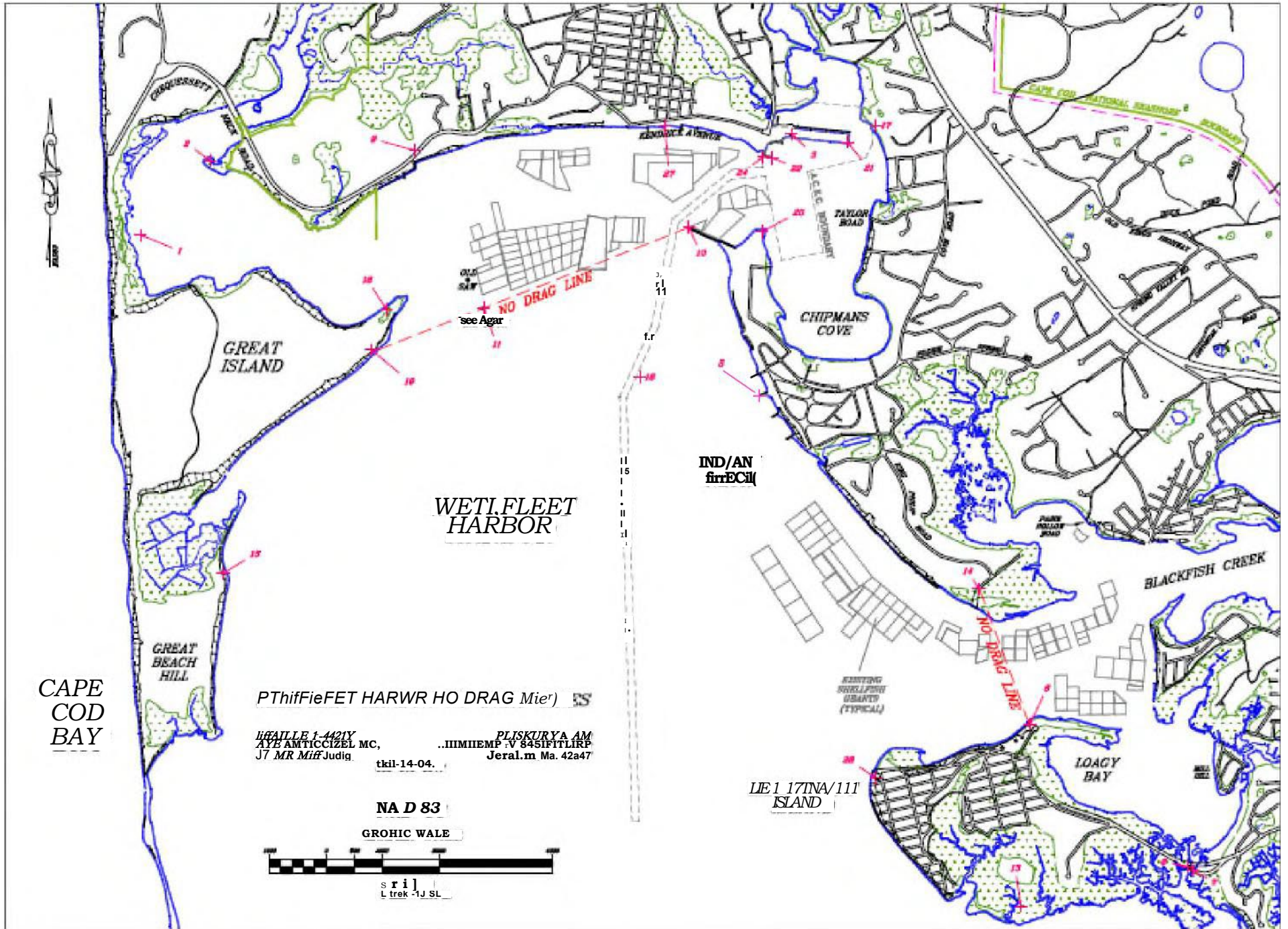
0.



This product is for planning and education purposes only. It is not to be used by itself for legal boundary definition or regulatory interpretation.

APPENDIX B Latitude and Longitude Coordinates

#	Point description	Latitude (N)	Longitude (W)
1	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92553333	-70.07081667
2	Boundary determined by the MA DMF, marked with poles on either side of the river	41.92911667	-70.06623333
3	Eastern high point of the Town Boat Ramp	41.92993333	-70.02850000
4	Eastham/Wellfleet boundary marker on Billingsgate Island	41.87195000	-70.06666667
5	End of the first groin south of the Burton Baker Landing	41.91717000	-70.03151667
6	Lieutenant's Island Bridge	41.89378333	-70.03091400
7	Lieutenant's Island Bridge	41.89361667	-70.00333333
8	Lieutenant's Island Boathouse	41.90090000	-70.01371667
9	Main flagpole at the Chequessett Neck Country Club	41.92943333	-70.05291667
10	Navigational beacon (#14) at the seaward end of Indian Neck Breakwater	41.92546667	-70.03528333
11	Near the rocks known as Old Saw	41.92168333	-70.04865000
12	Official boundary marker in Hatches Creek	41.88111667	-70.00445000
13	Osprey nest pole on the southern end of Lieutenant's Island	41.89198333	-70.01451667
14	Parking lot at Fox Island, marked with a striped pole	41.90753333	-70.01686667
15	Point in Middle Meadow, marked with a striped pole	41.90891667	-70.06583333
16	Point near the #12 channel marker	41.91818333	-70.03861667
17	Point on the shore on the other side of the channel (across from Shirrtail Point), marked with a striped pole	41.93028333	-70.02303333
18	Point on the tip of Great Island, marked with a striped pole (for Herring River)	41.92168333	-70.05495000
19	Point on the tip of Great Island, marked with a striped pole (for No Drag Line)	41.91971667	-70.05596667
20	Point on the tip of Indian Neck, marked with a striped pole	41.92518333	-70.03053333
21	Southeastern tip of Shirrtail Point	41.92946667	-70.02488333
22	Southeastern tip of the L pier	41.92878333	-70.02976667
23	Southern tip of Jeremy Point	41.87485000	-70.06363333
24	Southwestern tip of the L Pier	41.92881667	-70.03038333
25	Uncle Tim's Bridge	41.93751667	-70.02835000
26	Uncle Tim's Bridge	41.93693333	-70.02793333
27	US Geodetic and Coast Survey marker at the landward end of the third groin west of Mayo Beach	41.93045000	-70.03671667
28	Western edge of the house at the western tip of Lieutenant's Island	41.89838333	-70.02375000



OVERWINTERING AGREEMENT

agree to remove all metal racks, rebar or u hooks used to secure nets, or anything constructed of metal that is not securely fastened to within 2-4" to the bottom by January 15th, or before ice prevents removal, whichever comes first.

If I decide to store racks on my grant(s) over the winter, I agree to the following conditions:

1. All racks shall be tagged with the owner's name and grant number.

2. An accurate number of racks being left on the grant will be provided on this agreement form:
 - All racks with oysters on them are pumped down to within 2-4" of the bottom.
 - All racks without oysters on them are pumped down to be flush with the bottom.
 - I attest that before the threat of ice, I will be able to remove in _____ [e.g. two tides, two days], no matter what the tide height, all racks that will NOT be overwintered but are remaining in use on grant after January 15. These racks are not pushed down. I understand that it is up to Constable's discretion to allow this, and I will work with Shellfish Department to demonstrate my ability to meet this deadline.

3. Any racks that are damaged during the winter must be cleaned up by March 1st or when the departure of ice allows, whichever comes first. This is also addressed in Section 7.19.4.

4. I understand that I am solely liable for any damage my equipment may cause to other aquaculturists or the public.

5. In case of emergency, contact _____ at _____

6. Failure to adhere to these conditions can result in suspension or revocation of my grant license, in accordance with Section 7.19.6. and Section 11 of the Wellfleet Shellfishing Policy and Regulations.

Grant license(s) #: _____

Number of racks to be overwintered with product (2-4" off bottom):

Number of racks to be overwintered without product (flush with bottom):

Number of racks currently on grant, not pushed down, but that will be removed before ice:

Signature _____ Date: _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

V

USE OF TOWN PROPERTY

~ A ~

REQUESTED BY:	Wellfleet Spat ~ Tonya Felix
DESIRED ACTION:	To approve the use areas in Wellfleet for the Art & Oyster Crawl with participating art galleries
PROPOSED MOTION:	I move to approve the use of areas in Wellfleet to Wellfleet Spat; for the Art & Oyster Crawl on September 23, 2023; & November 4, 2023; both dates from 3pm – 7pm.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELFLEET
300 MAIN STREET
WELFLEET, MA 02667

Applicant TONYA FELIX

Affiliation or Group WELFLEET SPAT / DBA WOA

Telephone Number 508-958-5227

Mailing Address BOX 2156 WELFLEET MA 02667

Email address tfelixwellfleet@gmail.com

Town Property to be used (include specific area) PIER BY FRYING PAN GALLERY - SIDE WALKS THROUGH TO COMMERCIAL ST TO MAIN STREET TO RIGHT PAST BRIAR LN INTERSECTION

Date(s) and hours of use: 9/23/23 2pm to 8pm AND 11/4/23 2pm-8pm

AND TOWN HALL LAWN (POS FOR CHECK IN)

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.

ART + OYSTER CRAWLS W/ PARTICIPATING GALLERIES + RAW BARS W/ SHUCKERS
NO ALK ICED + TAGGED PRODUCT, BEER + WINE BY DEVILS PURSE + RUBY WINES

NEED SAFE STAFFING - 2,3 SHUCKERS, SPAT POINT PERSON @ EACH GALLERY - PARKING AT PIER + UPTOWN - DESIGNATED STAYS AREAS FOR CRAWL - TICKETED EVENT @

(200-250 TIX MAX) 85.00 PER TICKET

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

POSSIBLE POLICE TO CHECK-IN ON FOOT TRAFFIC FOR CRAWL - PEOPLE WILL USE SIDEWALKS + TENTS, RAW BARS WILL BE OFF OF ROADWAYS + ON

PRIVATE PROPERTY

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:

_____ Proof of Insurance Required

_____ Approved as submitted

_____ Approved with the following condition(s): _____

_____ Disapproved for following reason(s): _____

Date: _____

Processing Fee: \$50.00

Fee: \$110 + 110 = 220

Total = \$ 270
pd -

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: <i>ok - Meredith Ballinger</i> Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: <i>ok</i> Comments/Conditions: <i>Victor Staley</i> Permits/Inspections needed:
--	---

Police Department: <i>ok Kevin Lalocco</i> Comments/Conditions: <i>1 officer detail in cruiser to patrol area on 9/23 & 11/4/2023</i>	Fire Department: <i>ok - Rich Pauley</i> Comments/Conditions:
---	--

DPW: <i>ok - Jay Norton</i> Comments/Conditions	Community Services Director: <i>ok - per Suzanne Thomas</i> Comments/Conditions:
--	---

Harbormaster: Comments/Conditions	Shellfish: <i>ok - per Nancy Cietta</i> Comments/Conditions
---	--

Recreation: <i>ok - Becky Rosenberg</i> Comments/Conditions	Town Administrator: Comments/Conditions
--	---



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

V

USE OF TOWN PROPERTY

~ B ~

REQUESTED BY:	Wellfleet SPAT dba: WOA
DESIRED ACTION:	To approve the use of various town properties in Wellfleet for the 2023 Oysterfest.
PROPOSED MOTION:	I move to approve the use of town property to SPAT for various locations throughout Wellfleet as specified in the application for the dates of October 10, 2023, through October 17, 2023. Spat is to continue discussions with all department heads leading up to the event; for a fee of \$800.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

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

Date: January 8, 2023

Applicant: Wellfleet S.P.A.T. Inc.

Affiliation or Group: Wellfleet OysterFest '23

Telephone Number: 508-349-3499

Mailing Address: P.O. Box 2156 Wellfleet, MA 02667

Email address: vendors@wellfleetspat.org

Town Property to be used (include specific area)

- * Town Hall and WPH Parking Lots
- * Main St. from Bank St. to Holbrook St., inclusive (please note that vendors booths will be located on one side of the street only)
- * The grounds in the rear of Wellfleet Preservation Hall (arranged through a separate agreement with WPH)
- * The Live for Lou Memorial Garden
- * Bank St. to Commercial St.
- * Town parking lot at the intersection of Bank St. and Commercial St. (for bicycle parking)
- * A small area of Town Pier near Harbormaster's Building (for portable restrooms and trash receptacles)
- * All ocean beach parking lots including Mayo Beach Lot. SPAT will provide all of the infrastructure for these areas including shuttle bus transportation and portable restrooms. ~~SPAT will provide all of the infrastructure for these areas including shuttle bus transportation and portable restrooms. SPAT will provide all of the infrastructure for these areas including shuttle bus transportation and portable restrooms.~~
The Mayo Beach parking area as granted, remains free, AND WITH DESIGNATED HANDICAPPED SPACES.
- * Approximately 25 spaces in the Mayo Beach Parking Lot will be reserved for cars with a handicap tag.
- * Town Hall Conference room on the second floor for use by Event Organizers for administrative duties.
- * BASEMENT ACCESS FOR COMMUNICATIONS CENTER.
- * Town water to fill barrels as ballast for tents, hand-washing stations and public water-bottle refilling stations.

Date(s) and hours of use: October 10 - 17, 2023

- * 12:00AM Tuesday 10/10/23 THROUGH 12:00AM Tuesday 10/17/23: Town Hall Lot (from North side of Town Hall Building towards Squire's Pond) WILL BE CLOSED TO PUBLIC AND NO PARKING ALLOWED DURING INFRASTRUCTURE SET UP. HANDICAPPED AND ADMINISTRATIVE STAFF PARKING WILL BE AVAILABLE ON TUESDAY AND WEDNESDAY, OCTOBER 10 & 11, 2023.
- * 12:00 AM TUESDAY 10/10/23: Storage container delivered to Town Hall Lot.
- * 8:00AM WEDNESDAY 10/11/23 THROUGH 5:00PM: Main Stage delivered to Town Hall Lot and erected.
- * 8:00AM WEDNESDAY 10/11/23 THROUGH 5:00PM THURSDAY 10/12/23: Tents delivered and erected in Town Hall Lot and front lawn, Wellfleet Preservation Hall grounds and Live for Lou Memorial Garden.
- * 12:00AM THURSDAY 10/12/23 THROUGH 12:00AM TUESDAY 10/17/23: Town Hall Lot (from North side of Town Hall Building towards Squire's Pond) WILL BE CLOSED AND ABSOLUTELY NO PARKING WILL BE ALLOWED as parked cars SEVERELY IMPEDE SET-UP and breakdown. Please note that the handicapped ramp in the rear of Town Hall will be kept free and clear from event equipment during business hours (weekdays, 8am - 4pm). As in the past, SPAT will accommodate special needs parking.

- * 12:00AM THURSDAY 10/12/23 THROUGH 12:00AM MONDAY 10/16/23: Main St. Parking Lot across from Wellfleet Preservation Hall WILL BE CLOSED AND NO PARKING ALLOWED - TOWING SIGNS POSTED. Please note that in consideration to Preservation Hall and their programs, SPAT will permit limited parking in the lot on Friday afternoon and evening.
- * 8:00 AM FRIDAY 10/13/23 THROUGH 6:00PM SUNDAY 10/15/23: Town Parking Lot at bank St. and Commercial Streets will be barricaded by the DPW for bicycle parking over festival weekend.
- * 9:00AM FRIDAY 10/13/23 THROUGH 5:00PM: Refrigerated Beer truck and draft trailer delivered and placed for the weekend.
- * 3:00AM SATURDAY 10/14/23 THROUGH 6:00PM SUNDAY 10/15/23 Main St. inclusive from Holbrook Ave to Bank St. - NO STREET PARKING. We request that the Wellfleet Police Department monitor this and tow any cars that have parked overnight in either parking lot to on the street by 5:00AM each morning.
- * 9:00AM FRIDAY 10/13/23 THROUGH 10:00AM MONDAY 10/16/23 - Town Hall Conference Room on the second floor. USED BY EVENT ORGANIZERS FOR ADMINISTRATIVE DUTIES.
- * 7:00AM SATURDAY 10/14/23 THROUGH 6:00PM SUNDAY 10/15/23 - Town Hall Conference Room in basement. USED FOR POLICE, FIRE, SAFETY AND EVENT ORGANIZER HEADQUARTERS.
- * 8:00AM MONDAY 10/16/23 THROUGH 6:00PM TUESDAY 10/17/23: Main stage, tents and all other infrastructure removed from event site.

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.

- * Wellfleet OysterFest, a two day public street festival, will include: raw bars, food vendors, beer and wine (by separate permit), art and craft exhibitors, a Family Fun Area, educational lectures at the Wellfleet Public Library, shellfish farm tours, culinary programs at Wellfleet Preservation Hall, main stage activities and live music and featuring the annual Shuck Off.
- * All hand sinks, portable restrooms and fire safety equipment located at the event site outlined within the permit application will be provided by SPAT and inspected by town agencies.
- * SPAT requests the support of the DPW to prepare event site (by mowing lawns and delivering equipment to be determined at a logistical planning meeting with Town Department Heads and SPAT staff) and cleaning up from event (by picking up specified equipment and sweeping the street and parking lots).
- * SPAT agrees to pay for all town services utilized in the production of this event including permit fees, police and fire details, DPW support services, town water used for the event and transfer station dump fees.
- * Fees: Admission for adults is \$20 per person per day and children 12 and under will be admitted free. Wellfleet residents will be admitted free on Sunday with a ~~valid driver's license or student ID.~~ **FREE RESIDENT TICKET W/ RESIDENT CODE**

Permits to be obtained:

- * Building (Tents and stage)
- * BOH (Temp Food and Sanitation)
- * Electric (Power)
- * Board of Water Commissioners (public water bottle refilling stations) ?
- * Special Event Liquor License

Additional:

- * Planning meetings with all Town Department Heads
- * Planning with Fire Department and Public Safety - Incident Action Plan will be in effect.

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

Department of Public Works

- * Mow Grounds
- * Deliver saw horses to Town Hall Lawn, M.A Frazier to disperse
- * Deliver generator to Main Food Tent
- * Close Town Hall and beach parking lot restrooms
- * After Fest Street sweeping

Police Department

- * Work with SPAT to develop security and traffic plans
- * Police details throughout the weekend including site security, cash security, open and close traffic flow, overnight parking, pedestrian traffic near churches
- * Arrange for highway signs (3)
- * Install barrier fences as needed
- * Two overnight vehicles as required

Fire Department

- * Work with SPAT to update incident Action Plan
- * Provide staff necessary for emergency services including First Aid Tent, ambulances, etc.
- * Deliver light tower to Main Stage
- * Secure fire escape to Town Hall

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 *pd - 8-29-23*

Fee: _____

(over)

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

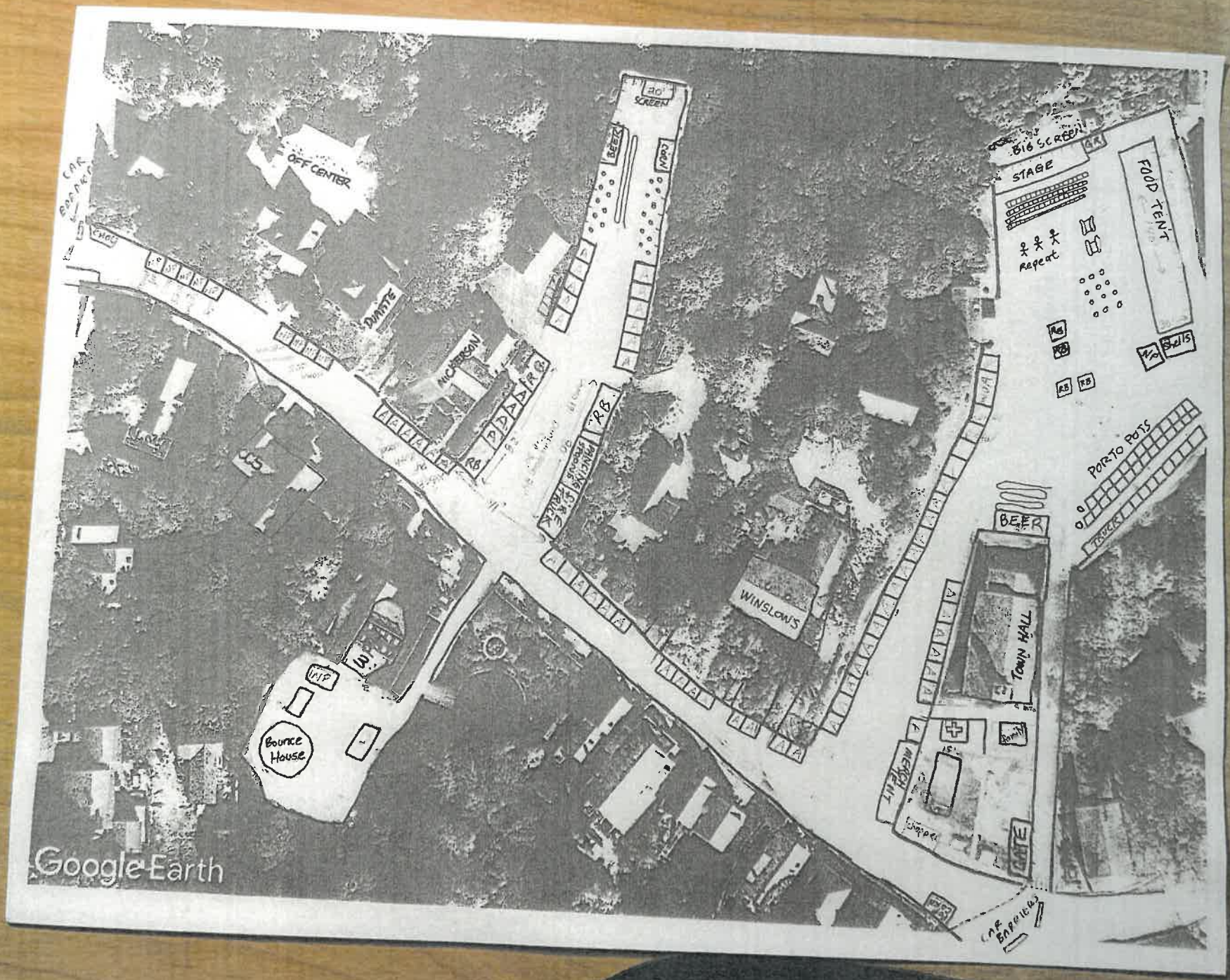
Health/Conservation Agent: <i>ok. Meredith Ballinger</i> Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: <i>ok Victor Staley</i> Comments/Conditions: Permits/Inspections needed:
---	--

Police Department: <i>ok - Kevin Profacco</i> Comments/Conditions:	Fire Department: <i>ok - Rich Pauley</i> Comments/Conditions: <i>spat will provide EMT/fire details</i>
---	---

DPW: <i>ok Peter Morris</i> Comments/Conditions:	Community Services Director: <i>ok - Suzanne Thomas</i> Comments/Conditions:
---	---

Harbormaster: Comments/Conditions	Shellfish: <i>ok - Nancy Cvetta</i> Comments/Conditions
---	--

Recreation: Comments/Conditions	Town Administrator: Comments/Conditions
---	---





SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

V

USE OF TOWN PROPERTY

~ C ~

REQUESTED BY:	Brian Friedman ~ Homerun Baseball Camp
DESIRED ACTION:	To approve the use of Wellfleet Elementary School baseball field for a children's baseball camp.
PROPOSED MOTION:	I move to approve the use of the Wellfleet Elementary School Baseball field to Brian Friedman for a children's baseball camp Tuesdays through Thursdays for the summer of 2024 from 8:30am-11:30am.
SUMMARY:	
Project	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant Brian Friedman Affiliation or Group Home Run Baseball Camp
Telephone Number 347-463-6900 Mailing Address 969 77th Street
Email address FriedmanBrian19@gmail.com Brooklyn, NY 11228
Town Property to be used (include specific area) Elementary School Baseball Field

Date(s) and hours of use: Tuesday, Wednesday, Thursday 8:30AM - 11:30AM 7/2/24 - 8/22/24

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.

Baseball Camp ages 6-12, all ability levels welcome.
We will be working closely with Wellfleet Rec. Campers
will pay \$250/week, with scholarships available. Registration
will be capped at 30. All equipment will be provided by Home Run Baseball Co

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

Use of field

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: _____

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: N/A Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: N/A Comments/Conditions: Permits/Inspections needed:
---	--

Police Department: ok - Kevin LaPeco Comments/Conditions:	Fire Department: ok - Rich Pauley Comments/Conditions:
--	---

DPW: ok - Pete Morris Comments/Conditions	Community Services Director: Comments/Conditions:
--	---

Harbormaster: N/A Comments/Conditions	Shellfish: N/A Comments/Conditions
--	---

Recreation: ok - Becky Rosenberg Comments/Conditions	Town Administrator: Comments/Conditions
---	---



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

V

USE OF TOWN PROPERTY

~ D ~

REQUESTED BY:	Second Summer Cycle, LLC; Patrick Lentell, Cape Cod Chamber of Commerce
DESIRED ACTION:	To approve the use of White Crest Beach Parking lot for a water stop.
PROPOSED MOTION: Summary:	I move to approve the use of White Crest Beach on September 17, 2023; from 10:30am-3:00pm for water stop to Second Summer Cycle, LLC (Patrick Lentell, applicant).
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant Second Summer Cycle, LLC
Chamber of Commerce

Affiliation or Group Cape Cod

Telephone Number 508-280-7903
02632

Mailing Address 5 Patti Page Way, Centerville, MA

Email address patrick.lentell@gmail.com

Town Property to be used (include specific area) Parking lot at White Crest Beach

Date(s) and hours of use: 9/17/23, 10:30 a.m. to 3:00 p.m.

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.

The usage is for a water stop for Second Summer Cycle that was previously approved. The application is not outside of the 30 day timeframe as I thought we had had to go through the National Park Service. My apologies. We only want to use a small corner of the parking lot. The request is for the lot on the water side of Oceanview Drive. The request is to allow us to have two six foot folding tables and serve water that riders can fill their water bottles with. The containers will not be single use containers. We will also serve oranges and bananas. We will have cleanup equipment and refuse containers. We will carry out all refuse and equipment.

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

No town services are needed.

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):

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: <i>ok - Meredith Ballinger</i> Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: <i>N/A</i> Comments/Conditions: Permits/Inspections needed:
--	---

Police Department: <i>ok - Kevin LaFoco</i> Comments/Conditions:	Fire Department: <i>ok - Rich Pauley</i> Comments/Conditions:
---	--

DPW: <i>ok - Pete Morris</i> Comments/Conditions <i>(Gary on vacation)</i>	Community Services Director: Comments/Conditions:
---	---

Harbormaster: Comments/Conditions	Shellfish: Comments/Conditions
---	--

Recreation: Comments/Conditions	Town Administrator: Comments/Conditions
---	---



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

V

USE OF TOWN PROPERTY

~ E ~

REQUESTED BY:	Dennis O'Connell ~ Wellfleet Conservation Trust ~ Coast Sweep
DESIRED ACTION:	To approve the use of Mayo Beach Parking Area for signup and assignments
PROPOSED MOTION:	I move to approve the use of Mayo Beach Parking Area to Wellfleet Conservation Trust on Monday October 9, 2023 from 9:30am to noon for the 2023 Coast Sweep.
Summary:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant Dennis O'Connell Affiliation or Group Wellfleet Conservation Trust **

Telephone Number 508-349-2162 Mailing Address PO Box 84, Wellfleet 02667

Email address dennyc@comcast.net

Town Property to be used (include specific area) Mayo Beach Parking Area (for sign up and assignments of volunteers to other beach areas)

Date(s) and hours of use: Monday October 9, 2023; From 9:30 to noon. (Rain or shine event)

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.

** CoastSweep 2023 program run by MA CZM - sponsored locally by eight groups including Wellfleet Conservation Trust; Mass Audubon of Wellfleet; Friends of Herring River; Town of Wellfleet groups, including Recycling Committee, Open Space Committee, Conservation Commission, Shellfish Advisory Board, and Shellfish Department. Typically, ~30 volunteers have participated, from all over eastern MA. See draft press release.

Volunteers meet and organize at Mayo Beach parking area to be assigned sections of beaches on Wellfleet Harbor and CC Bay. Return to Mayo Beach upon conclusion of "Sweep" with collected items. Items taken to Transfer station by organizers after the sweep.

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

Ability to dispose and recycle trash collected at the Wellfleet Transfer Station.

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: August 30, 2023

Processing Fee: \$50.00 Request waiver

Fee:

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: N/A Comments/Conditions: Permits/Inspections needed:
--	--

Police Department: ok - Kevin LaRocco Comments/Conditions:	Fire Department: Comments/Conditions:
---	---

DPW: ok - Pete Morris Comments/Conditions	Community Services Director: Comments/Conditions:
--	---

Harbormaster: N/A Comments/Conditions	Shellfish: N/A Comments/Conditions
--	---

Recreation: N/A Comments/Conditions	Town Administrator: Comments/Conditions
--	---

Draft press release

COASTSWEEP 2023 for Wellfleet Harbor to be held October 9, 2023

Several Wellfleet-based groups are holding a coordinated beach clean-up of marine debris from Wellfleet Harbor beaches as part of the Massachusetts "COASTSWEEP 2023" sponsored by the Massachusetts Office Coastal Zone Management (CZM). Citizen volunteers are sought.

From late August into November, thousands of people in Massachusetts volunteer for COASTSWEEP—the statewide beach cleanup sponsored by the Massachusetts Office of Coastal Zone Management (CZM). COASTSWEEP is part of the International Coastal Cleanup organized by Ocean Conservancy in Washington, DC. Volunteers from all over the world collect marine debris—trash, fishing line, and any other human-made items—and categorize and tally what they find. This information is then used to help discover marine debris sources and find solutions to this problem.

Volunteers are welcomed and encouraged to participate and should plan on meeting at 10:00 AM on Monday, October 9 at the Mayo Beach parking area on Kendrick Avenue, Wellfleet regardless of weather. Advanced sign-up is not required.

The Wellfleet Harbor SWEEP is being sponsored by the Wellfleet Conservation Trust, The Wellfleet Bay Sanctuary of Mass Audubon, Friends of Herring River, and Town of Wellfleet groups including the Recycling Committee, the Open Space Committee, the Conservation Commission, the Shellfish Advisory Board and the Shellfish Department.

Volunteers will be assigned to teams that go to the identified beaches. The teams will be collecting and recording the types and amounts of debris on scorecards and returning the debris to Mayo Beach for subsequent recycling or disposal at the Wellfleet Transfer Station. The SWEEP will provide trash bags, latex gloves and scorecards. Volunteers are encouraged to dress appropriately for the anticipated weather and bring their own water for consumption. In lieu of the latex gloves to be provided, volunteers may want to bring their own gloves

It is anticipated that the Sweep will conclude well before noon on that day.

For any questions, please email to info@wellfleetconservationtrust.org or call 508-349-2162.

August , 2023



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ A ~

REQUESTED BY:	Rich Waldo ~ Town Administrator
DESIRED ACTION:	Vote to approve the issuance of bonds.
PROPOSED MOTION:	I move to approve the issuance of bonds for the town of Wellfleet.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

VOTE OF THE SELECTBOARD

I, the Clerk of the Selectboard of the Town of Wellfleet, Massachusetts (the "Town"), certify that at a meeting of the board held September 5, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: that the sale of the \$9,955,000 General Obligation Municipal Purpose Loan of 2023 Bonds, Series A of the Town dated September 12, 2023 (the "Series A Bonds"), to Piper Sandler & Co. at the price of \$10,573,139.94 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on September 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2024	\$1,125,000	5.00%	2034	\$395,000	5.00%
2025	805,000	5.00	2035	395,000	4.00
2026	800,000	5.00	2036	390,000	4.00
2027	700,000	5.00	2037	390,000	4.00
2028	550,000	5.00	2038	390,000	4.00
2029	505,000	5.00	2039	390,000	4.00
2030	400,000	5.00	2040	385,000	4.00
2031	395,000	5.00	2041	385,000	4.00
2032	395,000	5.00	2042	385,000	4.00
2033	395,000	5.00	2043	380,000	4.00

Further Voted: that the sale of the \$1,030,000 General Obligation Land Acquisition Bonds, Series B (Subject to Federal and Massachusetts Income Taxation) (Unlimited Tax) of the Town dated September 12, 2023 (the "Series B Bonds" and together with the Series A Bonds, the "Bonds"), to Fidelity Capital Markets, a Division of National Financial Services LLC at the price of \$1,065,468.85 and accrued interest is hereby approved and confirmed. The Bonds shall be payable on September 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2024	\$105,000	7.00%	2029	\$105,000	6.50%
2025	105,000	7.00	2030	100,000	6.25
2026	105,000	7.00	2031	100,000	6.00
2027	105,000	7.00	2033	200,000	5.00
2028	105,000	6.50			

Further Voted: that the Bonds maturing on September 1, 2033 (the “Term Bond”) shall be subject to mandatory redemption or mature as follows:

<u>Term Bond</u>	
<u>Year</u>	<u>Amount</u>
2032	\$100,000
2033*	\$100,000

*Final Maturity

Further Voted: that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 22, 2023, and a final Official Statement dated August 29, 2023 (the “Official Statement”), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Bonds shall be subject to redemption, at the option of the Town, upon such terms and conditions as are set forth in the Official Statement.

Further Voted: that the Town Treasurer and the Selectboard be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds for the benefit of the holders of the Bonds from time to time.

Further Voted: that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Bonds and to comply with relevant securities laws.

Further Voted: that any certificates or documents relating to the Bonds (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures.

Further Voted: that each member of the Selectboard, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Bonds were taken in executive session, all in accordance with G.L. c. 30A, §§18-25 as amended.

Dated: September 5, 2023

Clerk of the Selectboard



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ B ~

REQUESTED BY:	Kai Potter
DESIRED ACTION:	To review and discuss art shacks at Mayo Beach
PROPOSED MOTION:	If a motion is needed one will be made at the time of the agenda item.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Wellfleet Art Shacks

A Proposal to establish, support, and build a collection of art shacks at Mayo Beach parking lot.

Wellfleet has a well deserved reputation as an arts community. It draws creative people to its shores and has an attitude supportive of the lifestyle artists lead. It is also a community that draws visitors to its shores. Our visitors like to take a piece of their experience home with them, often in the form of artwork created by our local artists. This is a benefit to our tourism and our artists, creators, and creative entrepreneurs. We have galleries and art markets where these two interests overlap, and I feel we have an opportunity for something more.

As you walk along the pier in Provincetown, the waterfront of Hyannis, or the downtown area of Orleans, you will see collections of funky little shacks. These shacks are leased seasonally to artists wanting to have an outlet for their work. It provides an entry level, low overhead opportunity for creative people to bring their work out into the world and creates a platform for them to draw income from their creative pursuits. The art shacks serve as incubators for what can grow into future business, galleries, or careers in art. It also creates a vibrant space where visitors can go to find unique artwork and, in doing so, support the artists behind the work.

I would like to see something like this in Wellfleet. I would like to see a space where artists and lovers of the arts can meet, exchange, inspire, and support the creative spirit of this community.

Down by our own waterfront is a space that lends itself to such a collection of art shacks. Mayo Beach parking lot has a mostly empty strip of median approximately six hundred feet long, and an average of forty feet in width. This space is accompanied by ample, free parking. The area is already a popular draw to visitors going to the beach, recreation fields, playground, tennis courts, restaurants, and to the harbor.

This part of town is historically a site of funky little shacks.. The shack that stands there now is a remnant of the old oyster shacks that used to sit on piling out over the water on the inner harbor. These shacks were places of industry and of social gathering. Seaside shacks are a part of Wellfleet's history and DNA.

The site could comfortably fit ten art shacks, connected by a simple shell walkway to provide safe movement between them. The shacks themselves tend to measure eighty to one hundred and twenty square feet. They can be tastefully built additions to the Mayo Beach area, aesthetically in line with the grey shingle or baton siding and wood shingle roofs characteristic of the town. There are not too many straight lines in Wellfleet, and these should be no exception.

This space currently hosts weekly art markets in the summer months. The location has proven to be a draw to both artists and patrons. Fixed structures would provide greater security, visibility, and longevity of exposure to the public for the artists. Leasing the shacks seasonally creates revenue for the town, opportunity for income for the artists, and establishes a vibrant space where art and its appreciation meet. We would be building a space where we can champion our love of and belief in the arts.

I feel strongly about this community. I believe in supporting it and it's people. I believe that a town's growth and movement are critical to its ongoing health. The well being of a community is founded in the well being of its people. Any step taken to create opportunity for its people is of a benefit to the community as a whole. I believe that a town can grow and develop in thoughtful ways, not in spite of its unique character and history, but in full appreciation and embrace of it.





WELLFLEET HARBOR

MAYO BEACH

MAYO BEACH PARKING AREA

WELLFLEET ART SHACKS

KENDRICK AVE

REC PARKING LOT

BOOKSTORE REST.

TENNIS COURTS

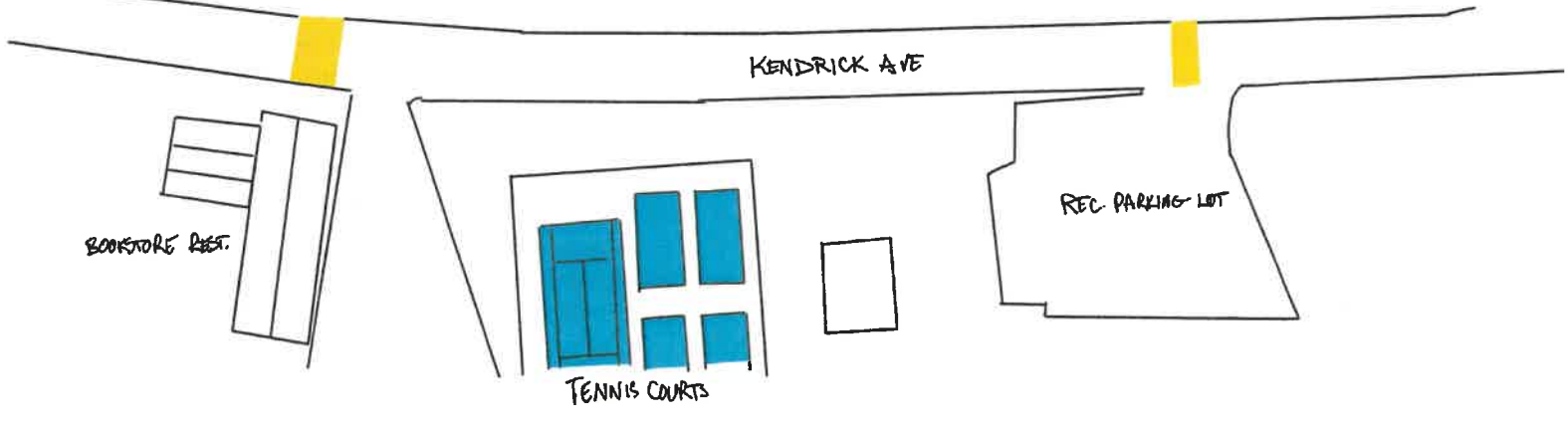
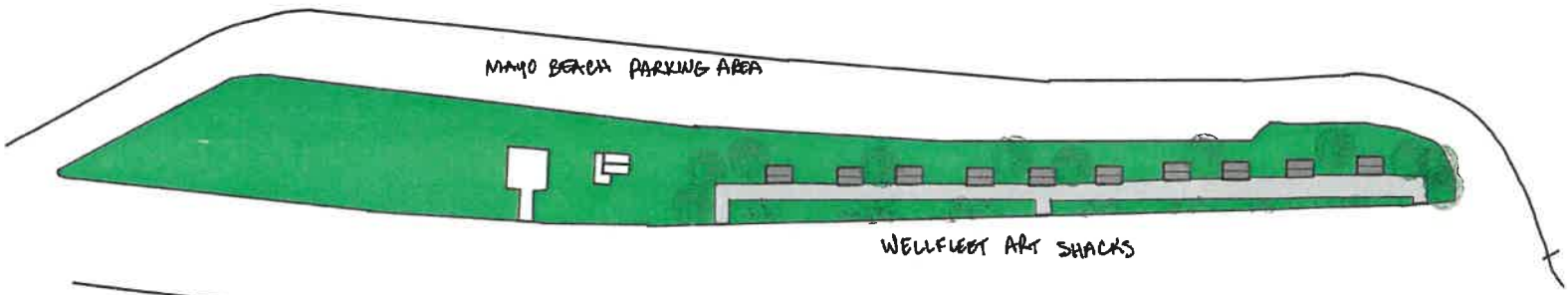




Table 1

Item	Expense	Revenue		
Cost of one 10x10 shack - purchase and install	\$5,350.00			
Cost of 10 shacks	\$53,500.00			
Utilities installation (electric)	\$10,000.00			
Total up front investment	\$63,500.00			
Revenue from one shack per season		\$5,500.00		
Revenue from 10 shacks per season		\$55,000.00		
In Provincetown, two of the Trap Shacks are leased on a weekly basis. Wellfleet Art Shacks could lease 4 shacks on a weekly basis; \$550/week in high season, \$350/week in shoulder season.				
Seasonal Revenue from one weekly leased shack		\$9,500.00		
Seasonal revenue from 4 weekly leased shacks		\$38,000.00		
Season revenue from remaining 6 seasonally leased shacks		\$33,000.00		
Total revenue from season one of art shacks		\$71,000.00		
Profit from season one		\$7,500.00		
Season 2		\$78,500.00		
Season 3		\$149,500.00		
Season 10		\$710,000.00		

Item		
Cost of one 10x10 shack - purchase and install		
Cost of 10 shacks		
Utilities installation (electric)		
Total up front investment		
Revenue from one shack per season		
Revenue from 10 shacks per season		
In Provincetown, two of the Trap Shacks are leased on a weekly basis. Wellfleet Art Shacks could lease 4 shacks on a weekly basis; \$550/week in high season, \$350/week in shoulder season.		
Seasonal Revenue from one weekly leased shack		
Seasonal revenue from 4 weekly leased shacks		
Season revenue from remaining 6 seasonally leased shacks		
Total revenue from season one of art shacks		
Profit from season one		
Season 2		
Season 3		
Season 10		



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ C ~

REQUESTED BY:	Elaine McIlroy, Housing Authority
DESIRED ACTION:	To approve Old King's Highway deed transfer for the Habitat for Humanity Housing.
PROPOSED MOTION: SUMMARY:	I move to approve the deed transfer on Old King's Highway for the Habitat for Humanity Housing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



TOWN OF WELLFLEET

300 MAIN STREET WELLFLEET, MASSACHUSETTS 02667

Office of the Town Clerk

Townclerk@wellfleet-ma.gov

Tel (508) 349-0301 Fax (508) 349-0317

Wellfleet-ma.gov

At a legal meeting of the qualified voters of the Town of Wellfleet held on April 28, 2008, the following Article #28 was printed in the Warrant:

ARTICLE 28: To see if the Town will vote pursuant to Article II, Section 7 of the Town of Wellfleet Bylaws to authorize the Board of Selectmen to transfer jurisdiction and control of land on Old King's Highway and Old Long Pond Road known as Lots 110, 111, 143 and 145 on Assessor's Map 16 to the Wellfleet Housing Authority for the purpose of providing affordable housing for low and moderate income residents of all ages provided said property shall be made available to Wellfleet residents under a local preference program to the extent permissible by law; said land shall not exceed 3.35 acres. Transfer shall be contingent of the location of a municipal water tower at the Elementary School. The deed transferring the land to the Housing Authority shall provide that in the event the land ceases to be used for the purposes provided herein or if the housing construction has not begun on the land within 10 years from the date the title to said land is transferred to the Housing Authority, the title to said land will revert back to the Town of Wellfleet and become vested in the inhabitants of the Town of Wellfleet. FINANCE COMMITTEE RECOMMENDS 7-0 PLANNING BOARD DOES NOT RECOMMEND 6-1 LOCAL HOUSING PARTNERSHIP RECOMMENDS 7-0 OPEN SPACE COMMITTEE RECOMMENDS 6-0 HOUSING AUTHORITY RECOMMENDS 3-0 BOARD OF SELECTMEN RECOMMENDS 5-0

2/3 Voice vote attained to accept and adopt as printed in the Warrant.

A TRUE COPY ATTEST

Jennifer M. Conzel

Town Clerk
WELLFLEET

June 27, 2023

QUITCLAIM DEED

Town of Wellfleet (“Grantor”), acting by and through its Selectboard, pursuant to the vote taken under Article 28 of the April 28, 2008 Annual Town Meeting, a certified copy of which is attached hereto, and having an address of 300 Main Street, Wellfleet, MA 02667,

For consideration of One Dollar (\$1.00) paid, the receipt and sufficiency of which are hereby acknowledged, grants and conveys

With Quitclaim Covenants, to

Wellfleet Housing Authority (“Grantee”), a Massachusetts housing authority, having an address of 300 Main Street, Wellfleet, MA 02667, the following property:

Four (4) parcels of land, with any improvements thereon, located at Old Kings Highway and Long Pond Road, Wellfleet, Massachusetts, being Assessor’s Map 16, Lots 110, 111, 143 and 145. A portion of the premises (Assessor’s Map 16, Lots 110, 111 and 143) is shown on a plan entitled “Consolidation Plan of Land in Wellfleet Made for the Wellfleet Housing Authority,” dated July 12, 2011, recorded with the Barnstable Registry of Deeds in Book 654, Page 12. Assessor’s Map 16, Lot 145 was acquired by the Grantor by virtue of a Treasurer’s Deed dated December 16, 2002, recorded with the Registry in Book 16102, Page 154.

The premises are to be used for the purpose of providing affordable housing in perpetuity, for low and moderate income persons of all ages, provided the premises shall be made available to Wellfleet residents under a local preference program to the extent permissible by law, and subject to the terms and conditions set forth below, which are binding on the Grantee, its successors and assigns (the “Restrictions”).

Grantee agrees to comply with any and all requirements of the laws of the Commonwealth of Massachusetts in order for the Restrictions to constitute deed restrictions and covenants running with the land, or in the alternative, an equitable servitude has been created to insure that the Restrictions run with the land. Further, the Restrictions shall be deemed to be an “other restriction” held by a governmental body, as that term is used in G.L. c. 184, §26, such that the Restrictions contained therein shall be enforceable for its full term and not be limited in duration by any contrary rule or operation of law, and in any event shall be enforceable for at least ninety-nine (99) years, without the necessity of recording any notices of extensions.

It is intended and agreed that these Restrictions shall run with the land and shall be binding upon Grantee and its successors and assigns for the benefit and in favor of, and enforceable by, Grantor.

In the event the premises are no longer used for the purposes provided herein or the housing construction has not begun on the land within ten years from the date of this Deed, the premises shall revert to the Grantor and become vested in the Town of Wellfleet.

The Grantor affirms that the municipal water tower at the Elementary School referenced in the attached Town Meeting Vote as a contingency to this conveyance and transfer has been built, and therefore said contingency has been satisfied.

For title, see Final Judgment of Foreclosure No. 92355 TL dated September 11, 1997 recorded with the Registry in Book 10991, Page 252 (Map 16, Lot 110); Final Judgment of Foreclosure No. 121039 TL dated March 7, 2001 recorded with the Registry in Book 14040, Page 230 (Map 16, Lot 111); Final Judgment of Foreclosure No. 121054 TL dated February 3, 2003 recorded with the Registry in Book 16615, Page 349 (Map 16, Lot 143) and Treasurer's Deed dated December 16, 2002, recorded with the Registry in Book 16102, Page 154 (Map 16, Lot 145).

No deed stamps are due under G.L. c. 64D, §1.

[Signature Page Follows]

Executed under seal as of this _____ day of September, 2023.

TOWN OF WELLFLEET,
By its Selectboard

Barbara Carboni, Chair

John A. Wolf, Vice-Chair

Michael DeVasto, Member

Kathleen Bacon, Member

Ryan Curley, Member

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of September, 2023, before me, the undersigned Notary Public, personally appeared _____, member of the Wellfleet Selectboard, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Wellfleet.

Notary Public
My Commission Expires:



TOWN OF WELLFLEET

300 MAIN STREET WELLFLEET, MASSACHUSETTS 02667

Office of the Town Clerk

Townclerk@wellfleet-ma.gov

Tel (508) 349-0301 Fax (508) 349-0317

Wellfleet-ma.gov

At a legal meeting of the qualified voters of the Town of Wellfleet held on April 22, 2019, the following Article 41 was printed in the Warrant:

ARTICLE 41: Disposition of Town Land to Housing Authority Mr. Ciotti moved and it was seconded that the care, custody, management and control of the parcel of land shown on Assessors Map 14, Parcel 112, be transferred from the board or commission having custody thereof and from the purpose for which it is held to the Wellfleet Housing Authority for affordable housing purposes.

The Board of Selectmen: Recommends 5-0.

The Housing Authority: Recommends 4-0

The Local Housing Partnership: Recommends 5-0

The Planning Board: Recommends 5-0.

The Conservation Commission: Recommends 6-0.

A two-thirds vote majority is required for adoption. The Moderator declared the motion carried on a unanimous voice vote.

A TRUE RECORD ATTEST:

Jennifer M. Congel
Town Clerk

DATED: August 02, 2023

Property Address: 90 Freeman Avenue, Wellfleet, Massachusetts

QUITCLAIM DEED

Town of Wellfleet (“Grantor”), acting by and through its Selectboard, pursuant to the vote taken under Article 41 of the 2019 Annual Town Meeting, a certified copy of which is attached hereto, and having an address of 300 Main Street, Wellfleet, MA 02667,

For consideration of One Dollar (\$1.00) paid, the receipt and sufficiency of which are hereby acknowledged, grants and conveys

With Quitclaim Covenants, to

Wellfleet Housing Authority (“Grantee”), a Massachusetts housing authority, having an address of 300 Main Street, Wellfleet, MA 02667, the following property:

A parcel of land, with any improvements thereon, located at 90 Freeman Avenue, Wellfleet, Massachusetts, and shown as Lots 393 and 394 on a plan recorded with the Barnstable County Registry of Deeds in Plan Book 94, Page 155. Said land is identified by the Town of Wellfleet’s Assessors as Map 14, Lot 112, and, according to said Assessor’s records contains 0.57 acres, more or less.

The premises are to be used for the purpose of providing affordable housing in perpetuity, for low and moderate income persons of all ages; provided the premises shall be made available to Wellfleet residents under a local preference program to the extent permissible by law, and subject to the terms and conditions set forth below, which are binding on the Grantee, its successors and assigns (the “Restrictions”).

Grantee agrees to comply with any and all requirements of the laws of the Commonwealth of Massachusetts in order for the Restrictions to constitute deed restrictions and covenants running with the land, or in the alternative, an equitable servitude has been created to insure that the Restrictions run with the land. Further, the Restrictions shall be deemed to be an “other restriction” held by a governmental body, as that term is used in G.L. c. 184, §26, such that the Restrictions contained therein shall be enforceable for its full term and not be limited in duration by any contrary rule or operation of law, and in any event shall be enforceable for at least ninety-nine (99) years, without the necessity of recording any notices of extensions.

It is intended and agreed that these Restrictions shall run with the land and shall be binding upon Grantee and its successors and assigns for the benefit and in favor of, and enforceable by, Grantor.

In the event the premises are no longer used for the purposes provided herein or the housing construction has not begun on the land within ten years from the date of this Deed, the premises shall revert to the Grantor and become vested in the Town of Wellfleet.

For title, see Instrument of Taking and Final Judgment in Tax Lien Case recorded with the Barnstable County Registry of Deeds in Book 8316, Page 77 and Book 10220, Page 318, respectively.

No deed stamps are due under G.L. c. 64D, §1.

[Signature Page Follows]

Executed under seal as of this _____ day of September, 2023.

TOWN OF WELLFLEET,
By its Selectboard

Barbara Carboni, Chair

John A. Wolf, Vice-Chair

Michael DeVasto, Member

Kathleen Bacon, Member

Ryan Curley, Member

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of September, 2023, before me, the undersigned Notary Public, personally appeared _____, member of the Wellfleet Selectboard, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Wellfleet.

Notary Public
My Commission Expires:



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ D ~

REQUESTED BY:	Rich Waldo ~ Town Administrator
DESIRED ACTION:	To approve the handout for Town Planner, for Special Town meeting.
PROPOSED MOTION: SUMMARY:	I move to approve the town planner document to be handed out at special town meeting to voters.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

**PLANNING DEPARTMENT
TOWN PLANNER**

DEFINITION

The Town Planner is responsible for directing the Town's land use and planning activities, including housing and economic development; and providing support to the Planning Board in order to advance the well-being of the town.

ESSENTIAL FUNCTIONS

The essential functions or duties listed below are in no particular order of priority and are intended only as illustrations of the various type of work that may be performed. The omission of specific duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

- Assists in the review of all housing and economic development proposals including subdivisions, special permits, and site plans, checking for completeness, accuracy, and compliance with town bylaws and Planning Board's regulations.
- Participates in plan review processes, prepares information and summary reports and makes recommendations to the Town Administrator, Select Board, Planning and other land-use related boards and committees, on housing and economic development proposals; writes professional letters, memoranda, reports, and other correspondence as required.
- Coordinates and assists when practicable other land-use related Town boards and committees such as the Wellfleet Housing Committees, Historic Commission, Conservation Commission, and Zoning Board of Appeals.
- Provides technical and programmatic expertise needed to develop policies, make recommendations, carry out affordable housing programs and projects, apply for grants/loans, secure services, and development proposals, and write reports.
- Oversees projects related to the Subdivision Control Law, special permit process, and site plan review; prepares recommendations to the Planning Board; attends Planning Board meetings; and performs all related administrative procedures.
- Provides technical assistance and information to citizens, landowners, developers, attorneys, engineers, and other interested parties seeking interpretation of the Zoning Laws and the Subdivision Rules and Regulations of the Planning Board, housing and commercial site plans, and industrial development. Provides technical assistance to departments in planning, housing and economic development and community development matters. Makes presentations to supervisors, boards/commissions, civic groups, and the public.
- Initiates and participates in the formulation of policies related to housing and economic development, environmental protection, and other concerns of the Town.
- Coordinates public fora and public participation meetings relative to housing planning activities.
- Educates residents and Town governing bodies through written materials and public presentations about new initiatives, Town activities, opportunities, and regulations.
- Provides professional guidance to applicants on housing and economic development proposals or other land use issues.

- Reviews Zoning Bylaws, Design Guidelines and Planning Board Rules and Regulations and recommends revisions for bylaws and regulations that dictate land use in the Town in response to changing conditions, policies, laws, environmental issues, and future development.
- Drafts Zoning Bylaws for review by the Planning Board, Select Board, and Town Meeting.
- Assists residents and applicants with questions regarding zoning bylaws, subdivision rules and regulations, and application procedures.
- Acts as agent of the Planning Board for purposes of evaluating plans and monitoring construction activities to ensure compliance with the Town's regulations and other by-laws. Conducts field investigations as required.
- Develops and maintains computerized data base (e.g., GIS) for planning, involving information regarding traffic, census, economics, physical attributes, etc.
- Coordinates Town planning goals and priorities with surrounding towns, state and local agencies, councils and committees and outside consultants as appropriate.
- Provide information to maintain and improve the community's social, cultural, historical, environmental, political, economic, and physical wellbeing, including the formulation of policies to preserve the Town's quality of life.
- Facilitates all long range-planning, including the development, updating and implementation of the Master Plan; assists the town in revising its vision for its future and recommends strategies for realizing that vision.
- Researches potential grant opportunities coordinates the application process and manages the projects that are funded through grant opportunities. Maintains a database of grant and funding sources and advises the town about funding opportunities.
- Attend continuing education training, classes, and workshops.
- Performs other related job duties as necessary, or as directed by the Planning Board or Town Administrator.

SUPERVISION RECEIVED

Under the general direction of the Town Administrator, the Planner conducts the majority of work independently, in accordance with standard practices. The Planner is expected to solve most problems of detail or unusual situations by adapting methods or interpreting instructions accordingly. Instructions for new assignments or special projects usually consist of statements of desired objectives, deadlines and priorities. Technical and policy problems or changes in procedures are discussed with supervisor.

JUDGEMENT

The work requires examining, analyzing and evaluating facts and circumstances surrounding individual problems, situations or transactions, and determining actions to be taken within the limits of standard or accepted practices. Guidelines include a large body of policies, practices and precedents that may be complex. Judgment is used in analyzing specific situations to determine appropriate actions. Requires understanding, interpreting and applying federal, state and local regulations.

COMPLEXITY

The work consists of the practical application of a variety of concepts, practices and specialized techniques relating to a professional or technical field. Assignments typically involve evaluation and interpretation of factors, conditions or unusual circumstances; inspecting, testing or evaluating compliance with established standards or criteria; gathering, analyzing and evaluating facts or data using specialized fact-finding techniques; or determining the methods to accomplish the work.

NATURE AND PURPOSE OF CONTACTS

Relationships are maintained with co-workers, vendors, the public, groups and/or individuals such as peers from other organizations, and representatives of professional organizations. The Planner serves as a spokesperson or recognized authority of the Town in matters of substance or considerable importance, including departmental practices, procedures, regulations or guidelines.

EDUCATION AND EXPERIENCE

Bachelor's degree in urban or Regional Planning, or related field and three to five years of relevant experience, or any equivalent combination of education, training, certification, and experience. Certification by the American Institute of Certified Planners is desirable.

KNOWLEDGE, ABILITY, AND SKILLS

Knowledge: Comprehensive knowledge of the current principles and practices of planning, zoning, and of related state and local land use legislation, procedures, codes, and standards. Working knowledge of computer applications such as GIS. Good working knowledge of and proficiency in the use of office automation, planning materials, tools, and other resources. Working knowledge of affordable housing programs. Working knowledge of State and Federal grant programs. Working knowledge of personnel management, municipal budgeting, record-keeping, purchasing procedures, procurement laws, public records laws, the open meeting law, and ethics laws.

Abilities: Ability to communicate effectively both orally and in writing; understand and explain various types of correspondence, reports and media; maintain good public relations and to maintain effective collaborative working relationships with Town departments, department heads, fellow employees, officials and the general public; conduct business in a diplomatic, professional and courteous manner, especially in contentious or confrontational situations; meet deadlines and work independently; multi-task and prioritize tasks; provide excellent customer service. Ability to interpret complex engineering drawings and to read and interpret plans, laws, and regulations.

Skills: Excellent organizational skills. Skill in developing policies and procedures to accomplish goals and objectives. Excellent customer service and public relations skills. Strong public speaking and presentation skills. Proficiency in software applications commonly in use by municipalities for word processing, spreadsheets, database, presentations, and mapping. Strong grant-writing, analytical, written and oral communication skills.

WORK ENVIRONMENT

The work is performed in an office environment but may require site visits and field work.

PHYSICAL, MOTOR, AND VISUAL SKILLS

Physical Skills

The work involves physical skills typical of an office environment, including sitting, standing, walking and stooping. May be required to lift objects such as files, boxes of papers, office supplies, and office equipment weighing up to 30 pounds.

Motor Skills

The work may require motor skills for activities such as moving objects, using office equipment, including but not limited to telephones, personal computers, handheld technology, and other office equipment.

Visual Skills

Visual demands require routinely reading documents for general understanding and analytical purposes. Frequent use of computer and reading computer screen is necessary. Ability to read maps and blueprints.

DRAFT



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ E ~

REQUESTED BY:	Rich Waldo ~ Town Administrator
DESIRED ACTION:	Reorganization of the Wellfleet Health and Conservation Department
PROPOSED MOTION:	I move to approve the reorganization of the Wellfleet Health and Conservation Department as explained by the Town Administrator.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Town of Wellfleet Conservation Agent

DEFINITION

Professional staff work assisting and advising the Conservation Commission in interpreting and enforcing the Massachusetts Wetlands Protection Act, Wellfleet Bylaws, and related state and local regulations; Performs field inspections; prepares of Orders of Conditions and related documents; community outreach and education; and all other related work as required.

ESSENTIAL FUNCTIONS

The essential functions or duties listed below are intended only as illustrations of the various type of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

- Provides staff level support to the Conservation Commission, and other departments; receives applications, advises applicants as to the process, develops agendas, agenda materials and supporting documentation; provides technical support and makes recommendations to the Commission. Attends all Commission meetings.
- Writes, in accordance with the vote of the Commission, Orders of Conditions, Determinations, and Certificates of Compliance, and presents them to the Commission for approval.
- On behalf of the Commission inspects work sites; In accordance with Commission votes, issues enforcement orders and determines compliance.
- Ensures that the Commission complies with deadlines and other requirements of the Wetlands Protection Act.
- Assists in the planning and implementation of all conservation land acquisition and management programs.
- Act as liaison with other town departments; boards, and the general public.
- Provides information and technical assistance to the public and other departments.
- Supports the Open Space Committee; assists with drafting and updating the Open Space and Recreation Plan.
- Provides staff level support for the Natural Resources Advisory Board and other boards and committees as may be assigned from time to time.
- Assists in reviewing comprehensive permit and other applications to Boards and Committees with regard to wetland impacts.
- Provides information to the public and other municipal departments and agencies regarding the location of wetland resource areas, their functions, and their regulations.
- Organizes and coordinates community events and activities related to conservation.
- Performs similar or related work as required or as situation dictates.

SUPERVISION RECEIVED

Under general direction, employee plans and prioritizes the work independently, in accordance with standard practices and previous training. Employee is expected to solve most problems of detail or unusual situations by adapting methods or interpreting instructions accordingly. Instructions for new assignments or special projects usually consist of statements of desired objectives, deadlines and priorities. Technical and policy problems, or changes in procedures are

discussed with the Director.

JUDGMENT

The work requires examining, analyzing and evaluating facts and circumstances surrounding individual problems, situations or transactions, and determining actions to be taken within the limits of standard or accepted practices. Guidelines include a large body of policies, practices, regulations and precedents which may be complex. Judgment is used in analyzing specific situations to determine appropriate actions. Requires understanding, interpreting and applying federal, state and local regulations.

COMPLEXITY

The work consists of the practical application of a variety of concepts, practices and specialized techniques relating to a professional or technical field. The work involves the evaluation and interpretation of factors, conditions or unusual circumstances; inspecting, testing or evaluating compliance with established standards or criteria; gathering, analyzing and evaluating facts or data using specialized fact finding techniques; or determining the methods to accomplish the work.

NATURE AND PURPOSE OF CONTACTS

Relationships are constantly with co-workers, private enterprises, the public, groups and/or individuals such as peers from other organizations, and representatives of professional organizations. The employee serves as a spokesperson or recognized authority of the organization in matters of substance or considerable importance, including departmental practices, procedures, regulations or guidelines. May be required to discuss controversial matters where tact is required to avoid friction and obtain cooperation.

CONFIDENTIALITY

Employee has access to some confidential and sensitive information in the performance of their duties

EDUCATION AND EXPERIENCE

Bachelor's degree in environmental science, Geology, Hydrology, Botany or a closely related field; and, and 3 to 5 years of related experience; or any equivalent combination of education, training and experience.

KNOWLEDGE, ABILITIES, AND SKILLS

Knowledge: Extensive knowledge of the Massachusetts Wetlands Protection Act and related local, state and federal laws and regulations including, but not limited to, MEPA, NPDES, and Sections 401 and 404 of the Clean Water Act. General knowledge of the Open Meeting Law, Public Records Act and procurement policy.

Abilities: Ability to deal tactfully and appropriately with peers, employees of the town, public officials, business and civic leaders, applicants, abutters, and the public. Ability to act under

pressure, assertively and ethically, to resolve compliance issues. Ability to read and understand technical data and site plans. Ability to read, comprehend, and interpret rules, by-laws, and regulations; ability to read, comprehend and consistently apply the Wetlands Protection Act, case law, and related local, state and federal laws and regulations; ability to act under pressure, assertively and ethically, to resolve conflict; Ability to manage and complete projects independently and as a member of a team; ability to analyze divergent problems and formulate solutions and recommendations; Ability to effectively communicate verbally and in writing; ability to work evenings as needed to attend meetings, hearings, and public presentations.

Skills: Strong written and oral communication skills. Ability to identify and delineate wetland resource areas per local, state, and federal regulations. Skilled in the application of software commonly in use by the town for word processing, spreadsheets, presentations and mapping. Proficiency with GIS and in interpretation of aerial photography. Excellent presentation skills.

WORK ENVIRONMENT

Administrative work is conducted in a typical office environment. Working conditions involve occasional exposure to elements found in the field, such as work sites, walking property to inspect, construction sites, etc. May be exposed to elements, but work can typically be rescheduled to avoid harsh elements.

PHYSICAL, MOTOR, AND VISUAL SKILLS

Administrative work is in an office setting, involving sitting, with intermittent periods of stooping, walking, and standing. When in the field, work requires agility and physical strength, such as moving in or about construction sites or over rough terrain or standing or walking most of the work period. Occasionally, work may require lifting heavy objects and carrying them (up to 50 lbs.). There may be needing to stretch and reach to retrieve materials.

Motor Skills

Duties require motor skills for activities such as moving objects, using office equipment, including but not limited to telephones, computers, handheld technology, and other office equipment.

Visual Skills

Visual demands require routinely reading documents for general understanding and analytical purposes.

**Town of Wellfleet
Public Health Agent**

DEFINITION

Professional staff work assisting and advising the Board of Health. Position is responsible for administering state and local health and environmental codes, laws, and policies, and for developing and exercising the Town's Public Health Emergency Plans according to the requirements of the Massachusetts Department of Public Health.

ESSENTIAL FUNCTIONS

The essential functions or duties listed below are intended only as illustrations of the various type of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

- Enforces Title 5 of the State Environmental Code and the State Sanitary Code; performs site inspections of building lots; evaluates soil tests and percolation tests to determine suitability for sewerage disposal systems; reviews plans for sewerage disposal facilities; approves such plans and inspects installation and repair of septic systems; works with installers and engineers to ensure that sewerage disposal systems conform to requirements and function properly; performs final septic inspections;
- Inspects restaurants, food handling and processing establishments, lodging establishments, nursing homes, group residences, childcare facilities, public pools and beaches, places of assembly, schools, and other areas required by law for compliance with state and local laws, rules and regulations and investigates complaints and illness at such facilities;
- Acts as staff liaison to Board of Health; advises Board of Health on technical issues and provides technical review of hearings, attends meetings and provides necessary administrative support;
- Acts as agent for the Board of Health in assigned matters relating to the control and efficient administration of Town public health matters;
- Prepares agendas and materials for all regular and special meetings (or hearings) of the Board of Health;
- Attends and participates in all meetings of the Board; performs all necessary follow-up for decisions or inquiries made in those meetings and between those meetings;
- Provides expertise to the Board in analyzing and evaluating various requests regarding sanitation, building and other permits;
- Works with local emergency planning committee to develop planning guidelines regarding environmental pollution, hazardous waste and industrial safety; and with healthcare providers and private businesses to build coalitions for coordination of policy development, community education, inspection and enforcement;
- Supervises full-time and part-time personnel in all aspects (i.e., recruitment of personnel, assignment of duties, performance evaluations and supervision, discipline, payroll preparation, maintenance of personnel records);
- Reviews and issues permits, applications and licenses, handles complaints from members of the public and investigates alleged nuisances and environmental hazards, initiates legal action and appears in court as necessary; reviews court filings for accuracy and completeness;
- Assists in reviewing comprehensive permit and other applications to Boards and Committees with regard to public health jurisdiction.
- Organizes and coordinates community events and activities related to public health.

- Reviews new connections to municipal sewer;
- Represents the Town at local, regional and state levels; participates in workgroups and ad hoc committees as necessary;
- Performs other related job duties as required.

SUPERVISION RECEIVED

Under administrative direction, the employee works from policies, goals, and objectives; establishes short-range plans and objectives, departmental performance standards and assumes direct accountability for department results; consults with the supervisor only where clarification, interpretation, or exception to policy may be required or as requested by the supervisor. The employee exercises control in the development of departmental policies, goals, objectives and budgets and is expected to resolve all conflicts which arise and coordinate with others as necessary.

SUPERVISION EXERCISED

The supervisor, as a regular and continuing part of the job, is accountable for the quality and quantity of work done by subordinates and assures the accomplishment of the assigned work in the prescribed manner. The supervisor gives advice and instruction on both administrative and work matters; informs subordinates of organizational policies, goals and procedures; resolves employee complaints and effects disciplinary actions and has substantial responsibility for technical soundness of subordinates' work.

JUDGMENT

Guidelines, which may be in the form of administrative or organizational policies, general principles, legislation or directives that pertain to a specific department or functional area, only provide limited guidance for performing the work. Extensive judgment and ingenuity are required to develop new or adapt existing methods and approaches for accomplishing objectives or to deal with new or unusual requirements within the limits of the guidelines or policies. The employee is recognized as the department or functional area's authority in interpreting the guidelines, in determining how they should be applied, and in developing operating policies.

COMPLEXITY

The work consists of employing many different concepts, theories, principles, techniques and practices relating to an administrative field. Assignments typically concern such matters as studying trends in the field for application to the work; assessing services and recommending improvements.

NATURE AND PURPOSE OF CONTACTS

Relationships are constantly with co-workers, vendors, the public, groups and/or individuals such as peers from other organizations, and representatives of professional organizations. The employee serves as a spokesperson or recognized authority of the organization in matters of substance or considerable importance, including departmental practices, procedures, regulations or guidelines.

CONFIDENTIALITY

The employee has regular access at the departmental level to a variety of sensitive and confidential information.

EDUCATION AND EXPERIENCE

Bachelor's degree in Environmental Health, Public Health, or other related field and three to four years of related experience, or any equivalent combination of education and experience. Must possess a valid Massachusetts driver's license in addition to any registration / licensure / certification requirements mandated

by Massachusetts General Laws.

KNOWLEDGE, ABILITY, AND SKILLS

Knowledge: Working knowledge of state sanitary codes, including food sanitation, sub surface sewage, and all other Commonwealth Health and Environmental laws and codes. Knowledge of engineering concepts in relation to wastewater. Knowledge of related federal, state and local laws, rules and regulations.

Abilities: Ability to conduct field inspections. Ability to use with proficiency Microsoft office or other word processing programs and relevant computer programs. Ability to manage and supervise employees effectively. Ability to communicate effectively both orally and in writing. Ability to maintain good public relations and effective collaborative working relationships with Town departments, department heads, fellow employees, officials and the general public. Ability to meet deadlines. Ability to work independently and exercise independent judgment.

Skills: Proven interpersonal skills, customer service skills and problem resolution skills. Must possess organizational skills and be detail orientated.

WORK ENVIRONMENT

The work is performed in an office environment. Working conditions may involve occasional exposure to elements found in the field, such as work sites, walking property to inspect, construction sites, etc. The employee may be required to work beyond normal business hours.

PHYSICAL, MOTOR, AND VISUAL SKILLS

Physical Skills

The work involves physical skills typical of an office environment, including sitting, standing, walking and stooping. May be required to lift objects such as files, boxes of papers, office supplies, and office equipment weighing up to 30 pounds.

Motor Skills

The work may require motor skills for activities such as moving objects, using office equipment, including but not limited to telephones, personal computers, handheld technology, and other office equipment.

Visual Skills

Visual demands require routinely reading documents for general understanding and analytical purposes. Frequent use of computer and reading computer screen is necessary.

From: [David Colton](#)
To: [Richard Waldo](#)
Cc: [Christine Ezersky](#)
Subject: Conservation Agent Salaries
Date: Tuesday, August 29, 2023 12:28:38 PM

Rich,

I took a look at current job postings for Conservation Agents across Massachusetts. I found 7 with salary information:

1. Hampden/Granby \$54,600
2. Medfield part-time \$29.63-36.31 per hour
3. Salisbury \$60,000-70,000
4. Sherborn \$72,800
5. Fitchburg \$60,268-66,508
6. Rutland part-time \$30.76 per hour
7. Hamilton part-time \$32.68 per hour

Our Assistant Health and Conservation Agent salary range is \$60,617-\$82,008 or hourly \$33.30-45.00. Taking the mid-point of the ranges and converting all salaries to an hourly rate, the average is \$33.40.

Therefore, I believe the data supports using the current range for Assistant Health and Conservation Agent for the new Conservation Agent salary range.

David



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ F ~

REQUESTED BY:	KP Law ~ Rich Waldo ~ Town Administrator
DESIRED ACTION:	To approve the intermunicipal agreement conflict of interest between the town of Eastham and the Town of Wellfleet for budgetary support.
PROPOSED MOTION: Summary:	I move that as an appointing board, The Selectboard have reviewed the particular matter of KP Law representing both Eastham and Wellfleet for an intermunicipal agreement for budgetary support we find no conflict and approve this request.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



The Leader in Public Sector Law

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

August 31, 2023

Carolyn M. Murray
cmurray@k-plaw.com

Hon. Barbara Huggins Carboni and
Members of the Selectboard
Wellfleet Town Hall
300 Main Street
Wellfleet, MA 02667

Re: Determination and Consent Pursuant to Massachusetts Rules of Professional Conduct,
Rule 1.7 – Representation of the Town of Wellfleet and Town of Eastham,
Memorandum of Agreement for Budgetary Support

Dear Members of the Selectboard:

You have requested that our office provide advice and assistance regarding a proposed Memorandum of Agreement for Budgetary Support (“MOA”) between the Town of Wellfleet (“Wellfleet”) and the Town of Eastham (“Eastham”). The MOA would authorize Eastham to provide financial and administrative support regarding the Fiscal Year 2025 budget to Wellfleet on an hourly basis through June 1, 2024. As both Wellfleet and Eastham are clients of KP Law, P.C., we are writing to disclose this request and obtain your consent.

Our relationships with Wellfleet and Eastham create interests that require disclosure pursuant to the Rules of Professional Conduct of the Massachusetts Bar, which mandate that we obtain the express permission of the appointing authority of each of our clients before we can represent the other. The purpose of this letter is to make such disclosure and to request that you determine whether you will permit such representation. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not “municipal employees” pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of a conflict on the firm’s behalf in this matter.

MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if the interests of one client are directly adverse to those of another client, or if his representation of one client may be materially limited by his responsibilities to another client or his own interests. If, however, the attorney reasonably believes that the representation of either client will not be adversely affected and each of the clients consents after consultation, the attorney may represent the client in such a situation.



Hon. Barbara Huggins Carboni and Members of the Selectboard

August 31, 2023

Page 2

DETERMINATION

It is our belief that our position as Town Counsel for Wellfleet and Eastham, and our representation of Wellfleet in this matter involving the MOA, for the purposes and under the conditions described in this letter, does not create a concurrent conflict of interest and will not affect the exercise of our independent professional judgment on behalf of Wellfleet with regard to the MOA here, or generally. The only risk I would note would be in the event that any employees working pursuant to the MOA allege allegations involving Wellfleet and/or Eastham, to the point where one party seeks legal redress from the other(s). Under these circumstances, KP Law, P.C. would cease representing all parties with respect to the former employee. It is, however, for you to determine whether the representation described herein will not impair the integrity of this firm's services to Wellfleet.

Accordingly, I request that you consent to our representation of Wellfleet and Eastham with respect to the MOA, notwithstanding the fact that KP Law, P.C. also serves as Town Counsel to Eastham. Should you so consent, I ask that you authorize the Board Chair or Town Administrator to sign on the Board's behalf the enclosed determination required by the Rules of Professional Conduct. Please sign two originals, return one copy to this office, and retain one copy for your records.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Carolyn M. Murray', written in a cursive style.

Carolyn M. Murray

CMM/mad

Enc.

879508/WELL/0001

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Town of Wellfleet, through its Selectboard, consents to KP Law, P.C. representing both the Town of Wellfleet and the Town of Eastham with regard to a Memorandum of Agreement for Budgetary Support, as disclosed in a letter to the Town dated August 31, 2023, notwithstanding that KP Law, P.C. also serves as counsel for the Town of Eastham.

TOWN OF WELLFLEET
By its Selectboard

Dated: _____

Signed by:



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VI

BUSINESS

~ G ~

REQUESTED BY:	Rich Waldo ~ Town Administrator
DESIRED ACTION:	To approve the memorandum of agreement with the Town of Eastham for budgetary support.
PROPOSED MOTION:	I move to approve to memorandum of agreement with the Town of Eastham for budgetary support to the Town of Wellfleet, pending the review and approval of town counsel.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VII

SELECTBOARD REPORTS:

Reported by:	Topic:
Chair Carboni	A. Prior Affiliations
Selectboard	B. FY 2024 Goals – review and prioritize



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VII

SELECTBOARD REPORTS

~ A ~

REQUESTED BY:	Barbara Carboni ~ Selectboard Chair
DESIRED ACTION:	To address prior affiliations with the board and public.
PROPOSED MOTION:	No Motion Needed
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

1060 BROWNS NECK ROAD
WELLFLEET MA 02667

August 28, 2023

Richard Waldo, Town Administrator
Wellfleet Town Hall
300 Main Street
Wellfleet, MA 02667

Re: Prior affiliation

Dear Mr. Waldo,

I write to address allegations that I have conflicts of interest with respect to two firms: KP Law, serving as Town Counsel; and Horsley Witten Group, an engineering firm retained from time to time by the Town. These allegations have been made by a single correspondent in emails to the Selectboard, and to me personally. I have attached a selection of those emails. As you will see, it is suggested that I need to file certain State Ethics Commission forms "disclosing" these alleged conflicts of interests. Although no conflicts exist and no response to these allegations is required, I write to provide clarity to the Selectboard and the public.

I have no affiliation with, nor have I ever had any affiliation with Horsley Witten Group

In 2001, Jonathan Witten, one of the founders of the firm, left Horsley Witten and divested himself of any financial interest in it. He opened a law practice.

In 2005, I joined Jonathan Witten's law firm, then called Daley and Witten. We formed the partnership of Huggins and Witten in 2009, and practiced under that name until 2019.

At the time I started practicing law with Jonathan Witten in 2005, he no longer had any financial or other interest in Horsley Witten, and had not since 2001. This means that I never had a financial interest (or other interest) in Horsley Witten through my law practice or partnership with Jonathan Witten. Because I never had a financial or other interest in Horsley Witten, there is no conflict of interest for me to disclose regarding the firm or any of its work for the Town.

I am not a Shareholder in KP Law, nor was I ever a Shareholder in KP Law

Jonathan Witten and I merged our practice with KP Law in 2019. We joined as "Members" of the firm, not as Shareholders. Member attorneys at KP Law are more senior than the law firm's associates, but hold no ownership interest in the firm; ownership interest is reserved for Shareholders. I was never named a Shareholder during my time at KP Law. After I

left KP Law in 2021 to work for the Town of Truro, I no longer had any relationship with the firm. I am not a Shareholder in KP Law now. Because I am not a Shareholder in KP Law, there is no conflict of interest for me to disclose regarding the firm or any of its work for Wellfleet as Town Counsel.

The fact that I was previously employed at KP Law does not, by itself, create any conflict of interest. Like other elected and appointed officials, I follow legal advice provided by KP Law as Town Counsel. I gain no benefit from KP Law's legal advice beyond the benefit gained by the Selectboard as a whole, and the Town as a whole.

Fabrication

In one of the attached emails, the correspondent has performed an awkward and obvious "cut and paste" job: the words "Shareholder at KP Law" are pasted under my name, to make it look as if it is an excerpt from my LinkedIn profile. Please note that this is not a screenshot or other reproduction of my LinkedIn profile, which has never said that I was a Shareholder at KP Law. The fact that this image had to be cut and pasted - that is, fabricated - would indicate to most observers that the correspondent knew it to be false.

Sincerely,



Barbara Carboni
Chair, Wellfleet Selectboard

unless Barbara admits she's a KP Law shareholder

Jude Ahern <jude@judeahern.com>

Mon 8/28/2023 9:24 AM

To: **Board of Selectmen <BoS@wellfleet-ma.gov>**

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honestly, she is going to have to recuse herself from both public hearings because they involved KP Law and her relationship to it. Nancy is telling everyone that Barbara instructed Greg to totally revamp our shellfish regulations. No response from Barbara is a yes.

Jude

From: Jude <jude@wellfleet-ma.gov>
Sent: Sunday, August 13, 2023 1:06 AM
To: Board of Selectmen <BoS@wellfleet-ma.gov>
Subject: This is what's going to happen

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Fake Selectboard:

I promise you that this is what is going to happen if you do not put the 28 acres OF LAND UNDER WATER in Blackfish Creek on the fall town meeting warrant.

I was shocked Fake Chair Barbara Huggins Carboni chose not to file a 23(b) (3) with her relationship with KP Law as requested repeatedly and even more shocked that she has never filed one in Truro either! This must be intentional because she is a shareholder.

Therefore, the first thing I'm "gonna do" (her terminology from June 20 transcript) is find out not only how much the Town pays KP law but how much KP law is going to make on the opiate class action lawsuit and how much town staff time and resources has been spent gathering the data for them to collect for damages. That will be made public and then Carboni's reason for refusing to sign a 23(b)(3) will be obvious. Barbara will be exposed as always acting like the lawyer she is, looking out for herself first. The fact that Carboni is a LAND USE lawyer will be emphasized. It will be made clear that Carboni angrily refused to explain to the People why this "mitigation plan" doesn't have to go Town meeting according to Section 7 of our bylaws. The Selectboard with Carboni as its Fake Chair will have to explain what KP Law means by "the town believes this is not a change of use" (in its response to my OML complaint about the lack of a properly posted public hearing) because this important issue was never discussed in public. One can only conclude that this discussion took place in private and with Carboni fully aware of this discussion since she is a LAND USE LAWYER. The transcript of the June 20 meeting is really damaging for all of you but Carboni, particularly. You all took an oath of office to uphold our bylaws and all of you failed to do this. Must be the money.

And that is just the beginning! This is a promise not a threat.

So, put the issue on the Warrant for fall town meeting or suffer these consequences.

Enough is enough, this Selectboard is a disgrace.

Jude

Sent from my iPhone

We are not having two public hearings for Mikey

Jude <[REDACTED]>

Tue 8/8/2023 12:39 AM

To:barbara.carboni@truro-ma.gov <barbara.carboni@truro-ma.gov>;Board of Selectmen <BoS@wellfleet-ma.gov>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Barbara, where's that 23(b) 3 about your relationship with KP Law? I've asked nicely several times. You clearly have a conflict of interest or you would willingly just do it. What's your problem with this request?

Regardless, you will need to recuse yourself from anything having to do with the "shared watershed" wellfleet shares with Truro which is anything shellfish (like corporatization), mitigation, wastewater, dredging...just like the Herring River Project. There is no difference.

I won't ask nicely again, rather I will legally demand it through Muck Rock so then when anyone googles your name, that's what they see first and trust me, it'll never go away, ask your friend Nancy who didn't want to give up her allegiance to SPAT who owns ARC.

Disrespectfully,

Jude

Sent from my iPhone

All Requests • MuckRock

Jude <[REDACTED]>

Tue 8/8/2023 12:57 AM

To: Board of Selectmen <BoS@wellfleet-ma.gov>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

<https://www.muckrock.com/foi/list/?q=Wellfleet>

Barbara, your name will be all over Muck Rock unless you simply do the right thing and really tell the People who you are: a land use lawyer who screws the people of wellfleet out of 28 acres of land by trying to define it as a "resource".

Sent from my iPhone

Barbara Carboni

From: Jude <[REDACTED]>
Sent: Friday, April 8, 2022 5:12 AM
To: Barbara Carboni
Subject: HRP and Witten

Dear Ms. Huggins-Carboni:

If elected, I trust you will be recusing yourself from any discussions about the Herring River Project. You cannot work for Truro and represent the best interests of the Town of Wellfleet without bias. That is obvious but please confirm that you will publicly state this during your campaign.

As a candidate, please confirm that you will disclose your longstanding business relationship/law firm partnership with Mr. Witten who founded and I believe still owns Horseley Witten, the company that has spent over \$800,000 of our taxpayers dollars and not delivered the deliverable, a viable 208 plan. While you are at it, please ask Curt Felix the Chair of our wastewater committee to share with the public what they have been discussing with Horseley Witten for OVER A YEAR with no meeting minutes. Try to find out why the Selectboard's 11/2/21 minutes are (the only one) missing wherein Horseley Witten presented their plan that includes 4 million oysters a year that the shellfishing community is vehemently opposed to yet doesn't even know it's still in the plan! Isn't Horsley Witten also doing 95 Lawrence Road and the Cloverleaf project too? No wonder your single issue is affordable "housing". With housing projects come massive septic systems that benefit your business contacts. I assume you've already filed a 23(b)3 in Truro for that relationship before you were hired. Please confirm so I don't have to make a public records request for it.

Lastly, please explain your history with bully Attorney Ben Zehnder. He seemed very casual with the way he addressed you in the last Truro zoning board meeting. How many times have you interacted with him as opposing attorneys? Who normally wins? You owe it to the people of Wellfleet to explain the situation at Ballston Beach and how it relates to the similar situation off Ocean View Drive for which our Planning Board Chair refuses to discuss in a meeting or public hearing. We want to know if you are going to let Attorney Zehnder walk all over the Town or if you intend to fiercely protect the Town's interests.

Frankly, I don't see how you can do both jobs well. You have serious perceived conflicts of interest that you must disclose. Your friend [REDACTED] has made a real mess for you to clean up at the worst possible time. Why are you bailing her out? Perhaps you share her "appetite" for....public service.

I look forward to hearing you speak to these issues this coming month so you reveal to the People of Wellfleet who you really are. If you want to meet me, come to the Selectboard meeting on April 12, I'm on the agenda. Maybe you can help clear up some questions I have as to the chain of events between March 8-29 and Helen's tampering with our election.

Until then,

Jude Ahern

Sent from my iPhone

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Barbara Carboni 23 (b) (3)

Jude Ahern <[REDACTED]>

Tue 8/8/2023 5:17 PM

To: Board of Selectmen <BoS@wellfleet-ma.gov>; Richard Waldo <Richard.Waldo@wellfleet-ma.gov>; Shellfish Advisory Board <SAB@wellfleet-ma.gov>

1 attachments (32 KB)

HRP and Witten-040822.pdf;

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I emailed Barbara Carboni a couple months ago on May 31, 2023 advising her to either take down one of her LinkedIn profiles and/or update them. She didn't. She's a "land use practitioner" who tells the People of Wellfleet that our 28 acres of land is not land but a "resource". She's not the Chair.

Barbara Huggins is a shareholder in KP Law. She sold her law firm she founded with Jon Witten (founder of Horsley-Witten our Wastewater consultants) to KP Law in 2019 and worked there until March 2021. She CLEARLY has a perceived Conflict of Interest that the People of Wellfleet deserve to know about.

I attach an email I sent to her while she was running for office on April 8, 2022. She called Ethics and has to rescue herself from HRP but she also should have filed a 23 (b) 3 before she took the Oath of office.

Again, Barbara what is the problem with this simple request?

Jude

I am ccing the SAB because they were asking why we are spending so much money on KP Law



LinkedIn

<https://www.linkedin.com> › ...

Barbara Carboni - Lawyer - Huggins and Witten, LLC

Greater Boston · Lawyer Huggins and Witten, LLC

Shareholder at KP Law, P.C.. Boston, MA · Andrew McIntire CFA. Managing Partner Baldwin Brothers LLC. Mattapoisett Center, MA ...

Where's Barbara Carboni's 23(b)3?

Jude [REDACTED]

Tue 7/18/2023 5:48 AM

To:Richard Waldo <Richard.Waldo@wellfleet-ma.gov>;Board of Selectmen <BoS@wellfleet-ma.gov>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I asked for it weeks ago. Where is it? She formed a partnership with Jon Witten founder and still stockholder of Horsley-Witten. How much have we paid them to date? And they in turn sold their law firm to KP law. More than just an appearance...

I want that today, before any of your secret meetings. When can I pick that up?

I hope all of you have good personal lawyers and not all planning to use [REDACTED]

Jude

Sent from my iPhone

Fw: Huggins-Carboni 23 (b) 3

Barbara Carboni <Barbara.Carboni@wellfleet-ma.gov>

Wed 7/12/2023 3:46 PM

To: Barbara Carboni <bcarboni02667@gmail.com>

From: Jude <[REDACTED]>

Sent: Wednesday, July 12, 2023 3:15 PM

To: Board of Selectmen <BoS@wellfleet-ma.gov>

Subject: Fwd: Huggins-Carboni 23 (b) 3

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I asked week ago. Huggins-whitten needs to be explained he still owns the business. That, ^{is} herring river and role as Truro planner she has too many conflicts of interests for which she will need to revise herself. The People should not have to suffer because of her prior life, before she moved full time her a couple years ago.

Jude

Sent from my iPhone

Begin forwarded message:

From: Jude <[REDACTED]>

Date: July 12, 2023 at 3:12:48 PM EDT

To: barbara.carboni@truro-ma.gov

Subject: Fwd: Huggins-Carboni 23 (b) 3

If you haven't already I will make sure everyone knows that.

Sent from my iPhone

Begin forwarded message:

From: Jude <[REDACTED]>

Date: July 12, 2023 at 3:10:04 PM EDT

To: Board of Selectmen <bos@wellfleet-ma.gov>

Subject: Huggins-Carboni 23 (b) 3

Fwd: were the Order of Conditions for cultching renewed since 8/8/2016 or 8/11/2016?

Jude Ahern [REDACTED]

Wed 5/31/2023 4:46 AM

To: Barbara Carboni <bcarboni@truro-ma.gov>

7 attachments (9 MB)

emailsbetweenCurleyandCivettaaboutcultchinginpainehollowarea.pdf; emailexchangeWithCurtFelix.pdf; wastewater073020transcript.docx; 16144 EENF Town of Wellfleet Proposed Shellfish Propagation Sites.pdf; EEA 16144.pdf; Extension Permit for Order of Conditions Recording_SE 77-1417.pdf; Order of Conditions Recording SE 077-1417.pdf;

I WANT YOU TO DO YOUR JOB FOR WELLFLEET TODAY!!!!!!!!!!

You wasted our time since March, I think you can find the time.

Also, submit a 23(b) (3) about your relationship with Horsley-Whitten.

SO glad I didn't vote for you. You are, by far, the lamest Selectboard member EVER and the one time you stop twiddling your pencil is to TELL THE PEOPLE IT IS THEIR PRIVILEGE TO KNOW ANYTHING!!!!!!!!!!!!!!

Begin forwarded message:

From: Jude Ahern <[REDACTED]>

Subject: Fwd: were the Order of Conditions for cultching renewed since 8/8/2016 or 8/11/2016?

Date: May 31, 2023 at 4:22:17 AM EDT

To: Board of Selectmen <bos@wellfleet-ma.gov>, Richard Waldo <richard.waldo@wellfleet-ma.gov>

[REDACTED] is in violation of the Order of Conditions now. She applied for a waiver for any Environmental Review Study as [REDACTED] was leaving office. I WANT ALL OF YOU TO DO YOU JOB AND DO SOMETHING ABOUT THIS TODAY!

I ALSO WANT A 23 (B) (3) FROM BARBARA CARBONI REGARDING HER RELATIONSHIP TO HORSLEY-WHITTEN. IT IS NOW CRYSTAL CLEAR SHE SHE HAS MANY CONFLICTS OF INTEREST.

SHAME ON ALL OF YOU.

Begin forwarded message:

From: Jude Ahern <[REDACTED]>

Subject: Re: were the Order of Conditions for cultching renewed since 8/8/2016 or 8/11/2016?

Date: May 29, 2023 at 2:58:04 PM EDT

To: Meredith Ballinger <Meredith.ballinger@wellfleet-ma.gov>

Cc: Christine Bates <Christine.Bates@wellfleet-ma.gov>, Wellfleet Conservation Commission <ConCom@wellfleet-ma.gov>

Rebekah Eldridge

From: [REDACTED]
Sent: Thursday, August 31, 2023 7:03 AM
To: Board of Selectmen; Jennifer Congel; Richard Waldo
Subject: Reducing quorum for fall town meeting not legally posted

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Fake Chair Carboni:

Where was your desire to reduce quorum for fall town meeting legally posted? There is no citation for what Section of Chapter 2 of the Acts of 2023 the "public notice" refers to (also fake because it's only found in the agenda).

Ditto for SPAT's request for two, one-day liquor licenses. Where was that notice legally posted?

Also, are we now NOT having two public hearings about shellfish regs? If so, when did you meet to discuss this and when were you planning to tell the People? In your last meeting, you instructed the TA to post the Sept 19 public hearing notice ALONE (without combining it with a tax rate change).

Barbara Carboni declared there would be two public hearings so nobody could possibly claim they weren't heard. Telling the Public you changed your minds on September 5 is unfortunately too late. Please keep in mind the irony that this is the same Barbara Carboni who lectured me about not understanding the difference between a meeting and a public hearing and ridiculed people who mistakenly call a meeting a hearing when it really is just a meeting.

Unfortunately I can't make it on the 5th so I'll see you all on the 19th!

By then surely Barbara Carboni will have disclosed her relationship with KP Law and explained why she and her KP Law colleague Greg Corbo (who describes himself as not specializing in fisheries management) made numerous changes to our shellfish regulations that have nothing to do with corporations being named to leases. Anything short of that is unacceptable and illegitimate. Somebody will be held responsible for this blatant attempt at overreach. The Public cannot be expected to submit comments to 50+ proposed changes by September 5. We have no idea what you will be discussing and not discussing on September 5 and it is not Nancy's job to highlight parts she thinks are relevant.

Thanks for making this a huge mess Fake Chair Barbara!

Sincerely,
Jude Ahern

Rebekah Eldridge

From: Jude Ahern <jude@judeahern.com>
Sent: Thursday, August 31, 2023 9:18 AM
To: Rebekah Eldridge; Board of Selectmen
Subject: Re: Letter to be in selectboard packet

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

AND DON'T YOU DARE PUT THIS BOGUS LETTER IN THERE WITHOUT THE SIGNED 23 (B) (3)!!!!!!!!!!!!!!!!!!!!!!!!!!!!

> On Aug 31, 2023, at 7:59 AM, Rebekah Eldridge <Rebekah.Eldridge@wellfleet-ma.gov> wrote:
>
> <Prior Affiliations ~ Carboni.pdf>



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VII

SELECTBOARD REPORTS

~ B ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	Review and Prioritize town wide goals for FY 2024
PROPOSED MOTION:	No motion is needed for this agenda item
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Selectboard Goals

FY 2024

Barbara Carboni (Chair):

1. To support the administration in recruiting, hiring, and retaining Town staff

John Wolf (Vice Chair):

1. To look into a study for issues at the marina, parking, traffic, etc.

Michael DeVasto:

1. Focus on planning for upcoming projects that have been approved.
2. Move forward existing projects to the extent possible in the fiscal year.
3. Minimize additional burdens placed on Town Administration and Town Staff until relevant and key positions are filled.

Ryan Curley:

- **Please see attached.**

Ryan Curley
FY 24 goals
07/30/2023

(

- Establish a migration plan to platform Town functions to a SaS cloud with a web-based portal for the public.
- Identify or develop a plan to create additional Meeting rooms for boards and committees.
- Local comprehensive plan
 - Restart the Local Comprehensive Planning Process.
 - Establish clear deadlines and expectations for the LCP process
 - Initiate a separate long-term local Climate Change Local Comprehensive plan establishing clear decision trees and points for various adaptations.
- Marina
 - Evaluate the L Pier for reconditioning
 - Explore opportunities for additional dockage
 - Evaluate fee structure
- Government
 - Stabilize town governance and administration.
 - Hire an experienced, capable, and driven ATA.
 - Reduce the number of tasks assigned to the ATA.
 - Hire a dedicated Financial Director with extensive municipal financial experience.
 - Foster enhanced communications between public bodies, public bodies, and town staff.
 - Hold Town Administrator to performance goals and finish reformatting performance reviews.
 - Ensure Effective Oversight of Town Operations
 - Establish better tracking of in-kind contributions to more readily meet the obligations of match requirements for many grants.
 - Pending approval of the Town Meeting, hire a Town Planner.
 - Hold staff accountable for submitting materials for the Selectboard Packets on time.
- Town Finances
 - Require Quarterlies
 - Normalizing the Town's Financial Operations, (structure, governance, reporting, and policies)
 - Increase the resources devoted to the town's Financial Operations
 - Require additional oversight by the Administration of Town Financial Operations, practices, and controls.

Ryan Curley FY 23 Goals
07/12/2023

- Hold the Administration accountable for implementing DOR/DLS FMR recommendations and be willing to discuss discipline if there are deviations from the FMR.
- Enhance the Auditing process with a revised and expanded scope of work put out to bid.
- Develop a Capital Asset Preservation Plan with ongoing tracking and inventory of fixed assets.
 - Develop a Capital Planning Committee
- Staffing
 - Discuss the regionalization of certain departments and services with surrounding towns to increase the resilience of those functions.
 - Require that the Town Administrator perform annual performance reviews with direct reports and performance reviews every three months for the first year of a new hire's employment.
 - Re-evaluate wages with the goal of being able to fill vacancies on a timely basis.
 - Establish a Job Description for the IT Director authorized at the 2023 Annual Town Meeting and fill the position.
 - Have the Administration implement a workforce development program
 - Evaluate the cost/benefit of a part-time grant writer
 - Evaluate the possibility of hiring a full-time Social Worker who would collaborate with Emergency Management Services on calls with mental health or substance issues and establish follow-up visits with the individuals in crisis and post-crisis if agreed to.
 - Establish proper procedures to screen prospective job applicants.
 - Address Benefits Tracking and Education.
- Prepare to start a Charter Amendment Process
 - There are many issues with the Charter I will not list them all.
- Energy
 - Continue Transitioning town department vehicle replacements to plug-in hybrids where available and practicable, as stipulated in the **Fuel-Efficient Vehicle Policy**.
 - Access all town-owned buildings in good repair for their suitability for rooftop solar and the cost-effectiveness of any modifications needed to support rooftop solar.
 - In addition to determining the present-day economic practicality of installing rooftop solar, implement a scale that weighs changes in price per kW installed and the wholesale price per kW for electricity providers enabling the town to judge when it is economically advantageous to fit rooftop solar on buildings where it may not make sense currently.

- Establish a replacement policy for all current fuel-powered equipment classes to replace them with electric equipment where possible and economical.
- **Beaches**
 - Expand LeCount Hollow/Maguire's Landing to the full width away from the beach to create additional parking to make up for the ongoing erosion reducing parking (lost 20 spaces in the 2021-2022 winter)
 - Establish a plan to build a new beach house for Lecount Hollow/Maguire's Landing by 2025. Following the winter storms of 2021-2022, the bathhouse is approximately 15' from the dune's edge
 - Extend Parking Beach Season to pay for lifeguards on at least one beach throughout June and September.
- **Wastewater**
 - Secure watershed permit. Develop an implementation program.
 - Hold the TA accountable for reaching out to Truro and Eastham to reach a MOA in regards to the Wellfleet Harbor watershed as instructed by a vote of the Selectboard in June of 2022.
 - Develop a wastewater implementation structure within the Town with clear lines of responsibilities and communications.
 - Move forward on wastewater initiatives already approved by town meeting, (Pilot IA system upgrades, Pilot PRB, 95 Lawrence Rd Decentralized Cluster System)
 - Develop a cross-departmental reporting program to capture nutrient remediation data.
 - Develop BMP for stormwater system replacements that are done as part of routine maintenance by the DPW
 - Plan a replacement cycle for town-owned septic systems within the Wellfleet Harbor Watershed and replacement or refurbishment of associated bathhouses.
 - Develop a conceptual wastewater treatment system for the Maurice's Campground property.
- **Herring River**
 - Ensure that all monies received for the project are Administered Properly
 - Insist that nutrient levels are being quantified to establish nutrient remediation benefits of the project.
 - Ensure contractors are held to their performance terms.
 - Reach a resolution with NPS regarding land exchange related to the project.
- **Housing**
 - Dedicate a certain percentage of free cash generated in excess of the required reserved funds to the Affordable Housing Trust.

- Continue to look for a diverse set of opportunities to address the housing crisis at multiple levels of income. (Funding, Zoning, opportunities for housing construction)
 - Continue to support the 95 Lawrence Rd Housing Project
 - Hire Master Planer for Maurice's Campground in a timely fashion.
 - Look for opportunities for affordable housing ownership
 - Establish a plan to institute staff support for the Housing related Committees, Entities, and Boards.
 - Work toward establishing a Housing Land Bank see Acts of 1983 Chapter 669, Massachusetts Legislature, and Acts of 1985 Chapter 736, Massachusetts Legislature.
- Work to secure and maintain public access points
 - Install/refresh town landing signage
 - Install additional small craft racks at in-demand locations
 - Develop a plan for engineering at Bank Street Public Landing for bulkhead with stairs
 - Develop plans for roadside parking w Boat racks at the former Windsufer setup area at Burton Baker Beach/Landing
 - Continue to work with town committees (Rights of Public Access, Open Space Committee, Conservation Commission)
 - Where possible and practicable, incorporate accessibility features.
 - Re-evaluate standards for the disposition of town-owned property with a focus on preserving or enhancing public access to public lands and waters.
- Public Safety
 - Continue to address the issues of Cahoon Hollow Beach
 - See Social Worker Item
 - With the Main St/Rt 6 project and the Mass DOT pavement preservation project enhancing roadway safety and incorporating multiple modes of transportation, look for opportunities to leverage those improvements to improve safety connecting town-owned roadways
- Increase Town Revenues
 - Ensure that all new growth is properly captured.
 - Simplify online transactions for members of the public.
 - Parking
 - Established paid parking for high-demand parking areas to generate revenue and promote enhanced circulation
 - Establish a Parking Department Reporting to the Police Chief for Parking Enforcement Officers
 - Clearly mark municipal parking areas
 - Evaluate the Rec Parking area and 338 Main Street for reconstruction.
 - Evaluate the Town Hall Parking Lot of re-striping
 - Water System Fee Structure

- Transfer Station
 - Re-evaluate the financial model of the transfer station. (See Eastham)
 - Create an Enterprise Fund to provide accurate information on the costs and revenues associated with the transfer station.
 - Phase out/eliminate the PAYT bags
- Implement new fee structures for:
 - Building Department
 - Health & Conservation
 - Marina
 - Others



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

VIII

TOPICS FOR FUTURE DISCUSSION

- The board will bring up topics that they wish to be on future agendas.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

IX

TOWN ADMINISTRATOR REPORTS

- **Please see Selectboard packet for full report**



MEMORANDUM

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

To: Selectboard
From: Richard J. Waldo, Town Administrator
Cc: Rebekah Eldridge, Executive Assistant to Town Administrator
Subject: Department Update Report for the September 5, 2023 Select Board Meeting
Date: August 30, 2023

Administration

- Our S&P Bond rating remained unchanged in our recent evaluation to the bond market. Despite the strong financials, they could not move past the staffing issues to upgrade our negative outlook to stable. There was a lot of discussion surrounding this issue and, hopefully, staffing will be in place for our next discussion.
- The Special Town Meeting Warrant has been mailed out. The meeting will take place on Monday September 18th, starting at 6pm and childcare will be provided for children ages 3 and up. Sign up for childcare is required, see link for more information <https://www.wellfleet-ma.gov/home/news/town-meeting-childcare-available-sign-up-now>
- The Administration has submitted a conditional offer of employment for the Assistant Town Administrator position. Pending an agreement to the principal terms of employment we will inform the Board of the proposed appointment as required by the Home Rule Charter.
- Interim Positions: The Town has offered an interim part-time position as Building Commissioner to Angelo Salamone. Angelo will work along with current part-time Commissioner Victor Staley to obtain a Building Commissioner Certification. Currently, Angelo possesses a local inspector certification. An interim Assistant Health and Conservation position has been offered. The interim role is pending the reorganization request by the administration to separate out health and conservation role into singular roles as Health Agent & Conservation Agent. The Administration will also request that the part-time administrative role be bumped to full-time status. Eastham will provide assistance in the department until we are fully staffed.
- The Administration would like to welcome Summer Fulcher as our new Assistant Treasurer/Collector. Ms. Fulcher started 8/30 and has begun a training schedule laid out by the Assistant Town Administrator, Principal Clerk, and Collector.

Building

- No Update

Community Services

Council on Aging

- Interviews for the Driver/Custodian position will be held the weeks of August 28th and September 4th
- Exercise classes are very well attended and we have added an additional morning of Yoga because of demand

Beaches

- Our season is over
 - Lifeguards last day is September 2
 - Beach Office and Parking lot people last day is September 3
 - Final numbers are not available but we took a big hit from the weather and I anticipate numbers being down over 2022

Social and Human Services

- Vouchers for children aged one month to five years, as authorized at ATM23, are complete.
 - A total of 35 children are enrolled
 - 6 are children of Town employees

Harbormaster

- No Update

Human Resources

- Ongoing recruitment for multiple open positions
- Creating interview questions as a guideline for meeting with applicants
- Implemented exit interview process with HR for full-time employees

Fire

- Firefighter/EMT Emie Cox will be starting his Firefighter 1/11 recruit training at the Massachusetts Firefighting Academy, Bridgewater campus, on September 11th• This is an intense ten (10) week program of classroom time and hands on/practical evolutions.
- We are finishing up the purchase of our new Squad 80 which is a 2023 Ford F-150 pickup truck (to replace our current 2015 pick up truck). Firefighter/EMT Luke Fancy has been the lead on this project and we hope to have the new truck in service in three (3) months, we will be awaiting some outfitting equipment (emergency warning lights, siren, tool box, etc.).
- We just inspected the new automatic sprinkler system and new fire alarm control panel at the Wellfleet Elementary School. There are just a few remaining components that still need to be corrected (25 dry sprinkler heads in the attic and three or four additional fire alarm pull stations). However, this project is largely completed and whatever work that still needs to be accomplished can be done during weekend(s) and after school hours.
- Firefighter/EMTs Luke Fancy and James Stergis will be starting paramedic school next month at Cape Cod Community College. This is a part time program and will entail approximately eighteen (18) months of classroom time, practical training, clinical//hospital time, ambulance ride time/mentorship, etc., (more than 1,000 hours of training) before completion.

- We continue to communicate and work with the owners of the Copper Swan, 70 Main Street, with respect to last month's fire and life safety inspection of both the inn and restaurant buildings to achieve code compliance.
- We have had three (3) meetings with Wellfleet Shellfish Promotion and Tasting, Inc. (SPAT) in preparations for this year's OysterFest on October 14th and 15th. These meetings have included this Department, the Police Department and have been productive so far.

Library

- Attendance has been way up at a lot of our events. Where we had been averaging about 40 people, now we have more like 60 and we just had our first fully full, standing room only event (Drew Gilpin Faust) on August 23 rd. We expect that our event with Alec Wilkenson, author of *Midnights: a year with the Wellfleet Police* (a new edition was released this year, as it is the book's 30th anniversary) will also be full. It is on August 30th at 7:00 PM. Alec is also a writer with the *New Yorker* and published another popular book this year.
- I finished my Annual Report Information Survey (ARIS) Report for the state last week and submitted it. Here are some trends. Our attendance is up more than 20,000 than last year, which is excellent, but we are not near our pre-Covid numbers yet. Our circulation has rebounded however. People are using our collection, both physical and online. Our circulation increased by several thousand and our interlibrary loan between libraries in CLAMS absolutely skyrocketed. We saw more people than ever using our ebooks and other online resources, and we have been doing more selection in these areas to accommodate those patrons. Our attendance at programs is way up and we had many more programs than last year. It's exciting to compare these reports year-to-year. Obviously, Covid put a wrench in the upward trends we had every single year, but it's nice to be rebounding.
- We now have 36 mobile hotspots. 25 are Verizon and are courtesy of our Trustees (and the generous donors who support our library). 11 are T-Mobile through Mobile Beacon/Tech Soup, a nonprofit that provides low-cost electronics to nonprofits and libraries. We know that we need to carry the Verizon ones because they have the greatest "reach" in areas with unreliable cell reception. Our hotspots are very popular and people rely heavily on them. We wish we could provide more.
- We are thrilled with our new public computers that we now have from our capital improvement plan. They are in constant use and the public is very pleased. It is such a relief to have computers that are fast and actually connect. We still need to purchase youth computers and a few more items, but are working towards this goal.
- Our Public Services Librarian, Luke Massouh, is leaving on September 1st to pursue graduate school full-time. I will be posting that job shortly and hope to find an energetic person who either has a library degree or has experience in libraries. I also want to have that person provide tech assistance to the public. We thank Luke for his two years of service to the people of Wellfleet and wish him the best in graduate school!
- On Tuesday, September 13th, we have local author, Chris Wisnewski, presenting her book, *The Hurricane of 1938, memories of the storm of the century*. This should be a very interesting event, especially given weather events happening now. The talk starts at 7:00 PM.

- On Friday, September 8th, we have an all-ages event - learn the ukulele with Julie Stepanek! Come and start learning a new instrument (I've actually taught myself - it's fun and it's not too hard!). The event starts at 3:30. Registration is required because Julie will be bringing ukuleles and there are a limited amount. Stop by the library or call at 508-349-0310 to reserve your spot!

Police

- The Department began the month of August with Officer Poska completing the Field Training and Evaluation Program, as well as completing a newly required training class that was mandated by the POST commission. After having completed this training Officer Poska is now a fully trained Wellfleet Police Officer.
- The Department continued its work at Cahoon Hollow Beach enforcing existing alcohol regulations. For the first three Saturdays of August 36 busses arrived on Ocean View Drive and were encountered by members of the department. This is in comparison to just one year earlier in 2022 the same three comparable Saturdays 76 busses arrived to drop off passengers at Cahoon Hollow beach this represents a 53% decrease in the number of busses.
- Hiring update: Two individuals have completed almost all pre-employment requirements for acceptance into an MPTC police academy. The department is currently evaluating which academy would be the most appropriate to send the candidates along with bringing them forward to a selectboard meeting for appointment.
- As the month of August draws to a close, members of the Wellfleet Police Command staff are busy meeting with Town officials and members of SPAT about the upcoming Oysterfest. The department is currently developing an Operations Plan for bringing the Oyster festival back to the Main Street Area.

Public Works

- No Update

Recreation

- The Baker's Field Recreation Program and Gull Pond Swim Lessons ended on August 18. Both programs received high praise from participating families. Much appreciation to Directors Patrick Finn at the Pond and Charity Robinson at Baker's Field and the exceptional seasonal staff for such a successful summer!
- Postmistress Joselyn Prudeaux was on hand at the annual skateboard competition held on August 19 at the Wellfleet Park, to announce a stamp dedication for the newly released "skateboard artwork stamp" in honor of the Wellfleet Park. Many thanks to Joselyn and the staff at the Wellfleet PO for this honor. In keeping with this praise, several young adult skaters/carpenters, led by Jake Sullivan and Thor Construction, volunteered to fix one of the wooden ramps so it could be fully utilized for the contest. Much gratitude to Mike Archer, owner the Boarding House Surf and Skate Shop, for donating hundreds of dollars' worth of prizes for participants and to Recreation Employee Anthony Rock for organizing such a well-run event.

- With approval from the Wellfleet Conservation Commission, the Mosquito Squad was able to treat the Baker's Field Pavilion area. Their donated services made a noticeable difference at all the August shows and events.
- Pickleball round robins and clinics will continue through September at the Baker's Field courts, for all levels of play. With the availability of six courts, pickleball is the fastest growing activity offered.
- The Department will again be sponsoring activities during Columbus Day weekend, including at Block Party featuring music, food trucks and a raw bar on Friday 10/6, a pickleball tournament on 10/7 and the Annual Shuck and Run Road Race on Sunday 10/8.
- Extensive planning is underway for the Recreational Soccer Season which begins the second week of September.
- Check the Town website for details about all Recreation Programming

Shellfish Department

Enforcement

- We continued grant inspections, completing all of Lt. Isle and Mayo Beach to Powers Landing. We have less than a dozen left to do and two re-inspections. (There are a total of 160 grants in Wellfleet, equaling 109 farms.)
- We have issued two written warnings – one for inadequate ice and one for seed. We also confiscated seed from two commercial shellfishermen for exceeding state limit of five percent seed; one will receive a citation.
- We continue to do random full state vibrio checks on farmers and commercial shellfishermen.
- We are working with a grant holder to remove gear that is not inside grant boundaries.
- We have been advising grant holders who are harvesting quahogs that all containers need to be tagged by the point of landing.
- We investigated a complaint that a boat was fishing over the Wellfleet-Eastham line. It was not.

Commercial Fishery and Grants

- We have been approached by many grant holders to meet on a diversity of issues from transfers and extensions, to grant inspections, minimum productivity, and regulation changes.
- We are working with grant holders who don't have professional surveys of their grant to ensure they get them done.
- We have been letting people know that the grant lottery is coming up.

- We advertised the Selectboard lottery of five shellfish grants and created separate pages on our website, so everything was easy to see and download. We had copies made for our office and sent a Crier to all in commercial shellfishing industry. Lottery application period opens Aug. 31 and closes Sept. 29.

Propagation

- We distributed oysters from hat seed grown on our grant to a commercial-only harvest area and to the recreational-only area on Indian Neck.
- We presented our 2023 cultching activities with maps and photos to the Conservation Commission and provided details about our understanding of our permits and orders of conditions to the commission in response to a complaint filed with them from Ms. Jude Ahern.
- We applied for a grant from the Mass Oyster Project for aquaculture gear, specifically spat collecting devices.
- We continue to break down our oyster seed and strap down bags on our grant.
- We submitted documentation to Conservation Commission for the renewal of our Town cultching permit.

Recreational Fishery

- We sent contaminated quahog samples from Burton Baker Beach to the State for testing. They came back with a clean bill of health, and we opened Burton Baker Beach to recreational shellfishing on Sunday, August 20.
- We submitted a memo on the recreational shellfishery to Shellfish Advisory Board addressing family permits with input from the seasonal Shellfish Deputies. It seems that a few recreational shellfishermen would want a family permit. Further discussions will take place.
- The seasonal Shellfish Deputies created a "Welcome to Wellfleet Shellfishing" email and sent it to all new permit holders. They also sent out a Crier announcing the opening of Burton Baker Beach and explaining the state-run contaminated quahog relay.
- Volunteer extraordinaire Wayne Clough made three-inch PVC rings for the rec fishery and gave them to us. We distributed them at the three landings and have them in our trucks, too.

State

- We did another two runs for state water quality testing. Herring River water quality was good and will close as usual on August 31. We await the results from this week on other areas.
- We have been advised by the state that in August, we had two single source cases of vibrio attributed to Wellfleet. Culturing of specimens still needs to be done in order to identify if it is *Vibrio Parahaemolyticus*; if it is, the Town will receive an advisory from the state.

- We sent photos of vibrio logbooks to the state, as requested, and followed up with all grant holders involved.
- We participated in an eel grass survey online.
- We sent all required documentation to the state to request biological surveys for three grant extensions.

Studies

- We are collaborating with the Cape Cod Cooperative Extension and the Center for Coastal Studies on a survey and study of bamboo worms in Wellfleet Harbor.
- WHOI came to Wellfleet to gather quahog samples as part of a continuing neoplasia study. They are comparing surface clams with neoplasia to clams without neoplasia to determine if there are any differences.

Regulations

- We updated the regulation changes made this spring and posted them on the Town website and in public places as per Section 3.1. [Current version is dated 5/23/2023.](#)
- We participated in a call with the Selectboard Chair and Vice Chair, the Town Administrator and Town Counsel to discuss taking corporations out of Wellfleet's Shellfishing Policy and Regulations. When we received Town Counsel's revisions, we went through and added our comments and suggestions as a team. We sent these immediately to Shellfish Advisory Board in advance of their meeting. SAB voted to advise Selectboard to take up only the regulations related to prohibiting corporations, and we agreed. We ran just those sections by the Mass. Division of Marine Fisheries, and they provided two comments, as well.

Other

- We were notified that we will have an Individual Placement AmeriCorps Cape Cod member serving with the department on Tuesdays and Wednesdays, beginning in October through July.
- We nominated Mass Oyster Project for a MassRecycle Award. We were informed that while they did not win this year, our nomination provided well-deserved recognition and a shortened version of our nomination will be posted at the awards ceremony and event.
- Nancy attended a Shellfish Advisory Board meeting, two Selectboard meetings and a staff meeting.
- We continue to work on ensuring access to shellfish resources with various private and non-profit landowners.
- We conducted a biological survey for two more monitoring points in the Blackfish Creek mitigation area.

- We also sent out another Crier to the commercial shellfishing industry.
- Nancy fulfilled another public records request from Jude Ahern regarding correspondence with the National Park Service about cultching in the Herring River per the Town's order of conditions.
- Nancy responded to second complaint filed by Ms. Ahern with the Mass. Dept. of Environmental Protection about the department's cultching activities.

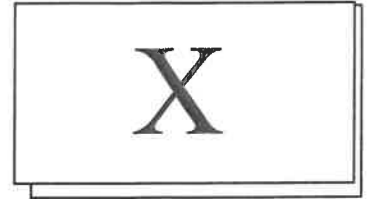
Town Clerk

- Working on updating Vault Documents (Town meeting highlights & Voter registration affidavits).
- Gathering and organizing items needed in order to mail out over 650 Vote by mail ballots (Three different envelopes and instructions).
- Continued Elections training through the Secretary of the Commonwealth's office
- Working with General code to get recently passed, By-law amendments into our Town Code.
- Notifications and Webinars have begun for the 2024 Election year, Including Town Committee papers, and new applications for working with Voters who reside overseas.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023



VACANCY REPORTS

*****Please see the packet for full report*****

*Town Of Wellfleet
Board/Committee Vacancy List
September 5, 2023*

Board of Health – 3-year term – 5 Members 1 Alternate

- **1 Alternate position vacancies**

Board of Water Commissioners – 3-year term – 5 Members, 1 Alternate

- **2 Alternate position vacancies**

Board of Registrars – 3- year term – 4 Members

- **1 Vacancy**

Building and Needs Assessment Committee – 3-year term – 5 Members

- **2 Vacancies**

Cable Internet and Cellular Service Advisory Committee – 1-year term – 5 Members

- **1 Vacancy**

Conservation Commission – 3-year term – 7 Members, 2 Alternates

- **2 Alternate vacancies**

Council on Aging – 3-year term – 9 Members

- **1 Vacancy**

Cultural Council – 3-year term – No more than 15 Members

- **5 Vacancies**

Dredging Task Force – 3-year term – 7 Members

- **3 Vacancies**

Finance Committee – 3-year term – 9 Members, 2 Alternates

- **1 Vacancy**

Natural Resource Advisory Board – 3-year term – 7 Members

- **3 Vacancies**

Planning Board – 3-year term – 7 Members, 2 Alternates

- **1 Voting Member Vacancy**
- **2 Alternate Vacancies**

Recreation Committee – 3-year term – 7 Members

- **2 Vacancies**

Recycling Committee – 3-year year term – 7 Members, 2 Alternates

- **2 Alternate Vacancies**

Rights of Public Access Committee – 3-year term – 5 Members

- **4 Vacancies**

Wellfleet Public Library Trustees – 3-year term- 7 Members

- **1 Vacancy**



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

XI

MINUTES

REQUESTED BY:	Executive Assistant
DESIRED ACTION:	Approval of Amended Meeting Minutes of August 8, 2023, and draft minutes of August 15, 2023 & August 22, 2023.
PROPOSED MOTION:	I move to approve the amended minutes of August 8, 2023, and the draft minutes of August 15, 2023; and August 22, 2023.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

***Wellfleet Selectboard
Tuesday August 8, 2023; 7pm
Hybrid Meeting: Zoom/715 Old King's Highway
Meeting Minutes***

Members Present: Barbara Carboni, Chair; John Wolf, Vice Chair; Kathleen Bacon, Micheal DeVasto, Ryan Curley

Others Present: Rich Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Tim Sayre, resident; Carole Ridley; Herring River Restoration Project Coordinator; Christa Drew, Herring River, Chris Merl, resident; Diane Brunt, resident; Jude Ahern, resident; Lisa Dexter, resident; Jilliam Minahan, applicant for use of town property; James Wright, Minivan Productions; David Formato, Onsite Engineering

Chair Carboni Called the meeting to order at 7:01pm

I. *Announcements 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.

Chair Carboni opened comments to the board first there were none. Merl spoke to the board about 2 public hearings on the corporation potential for shellfish grant holders. He questioned why the board would have 2 public hearings. He also stated he had questions about the meeting with town counsel and wondered why there was a meeting without the members of the community who he stated were the clients and didn't feel it should be confidential.

Brunt spoke to the board, reading documents regarding the mitigation plan and dredging. She spoke about the Shellfish Advisory Board meeting held on August 7, 2023.

Curley stated that no member of the board can bind the board on how many public hearings are held.

Carboni spoke to the public stating that there will be a public hearing held on September 5th to address the shellfish regulations and the policies and wanted to make sure there was ample opportunity for people to discuss their thoughts and feelings.

Sayre spoke to the board stating that at the shellfish advisory meeting, money has already been spent on mitigation efforts he felt this was a misuse of funds.

Ahern spoke to the board about 23B regarding Chair Carboni being a land use owner.

Merl spoke again, about dredging and using matching funds.

Dexter spoke to the board about the wild shellfishing and stated that she has been wild fishing for over 20 minutes, she stated it took her over 2 hours to dig 100 oysters. She had a complaint about a resident shellfishing and taking illegal sized oysters, she feels they shouldn't be allowed to shellfish there.

II. *Consent Agenda*

A. Amendment to Community Preservation Committee Grant Agreement ~ Jennifer Elsensohn

Board Member DeVasto, Board Member Wolf Seconded; and it was voted to approve the consent agenda as amended.

Roll Call Vote: 5-0

III. *Public Hearings*

- A. CONTINUED** from 06/20/2023 - Verizon New England to place approximately eight-hundred feet (800') of new conduit adjacent to 1065 Chequessett Neck Rd. Wellfleet MA

Wes Stinson spoke to the board about the purpose of installing the cable conduit. It will be provided by the contractor itself. He explained the original application had some misinformation in it and explained the edits and what they were planning to do.

Chair Carboni questioned if there were any questions from the board or the public. Yeston questioned if it would interrupt any services, Stinson explained that no he had no expectations of disruption.

Board Member DeVasto Moved; Board Member Curley Seconded; and it was voted to approve the placement of approximately 800 feet of new conduit adjacent to 1065 Chequessett Neck Road, Wellfleet MA.

Roll Call Vote: 5-0

IV. *Use of Town Property*

- A. Wellfleet Skate Park ~ Jillian Minahan ~ Skate Jam; August 24, 2023; 6-9pm.**

Minahan spoke to the board explaining what they would like to do and how many people will attend. She wasn't sure exact numbers she stated it would be around 30 people. Bacon questioned if they needed the recreation staff to work the event, she stated no they didn't need recreation staff.

Board Member Curley Moved, Board Member Wolf Seconded; and it was voted to approve the use of the skate park at Baker's Field on Thursday August 24, 2024, for a community skate jam as specified in the application and to waive the fees.

Roll Call Vote: 5-0

- B. Uncle Tim's Bridge & Cannon Hill Park~ James Wright, Minivan Productions~ August 15, 2023, 6am-10am & 3pm-8pm.**

Wright spoke to the board about his film, explaining it is a documentary talking about mental health and debunking the stigmatism. Wolf questioned the timing of the start time being 6am and explaining that it is a residential area. It was explained to them the film will have no audible sound. Bacon questioned if the residents and guests could still use the bridge while they are filming. He explained that they would have to stop people for no more than 3-4 minutes. She also questioned if there were any props needed in the filming.

Board Member Wolf Moved; Board Member Seconded; and it was voted to approve James Wright of Minivan Productions the use of Uncle Tim's Bridge and Cannon Hill Park for the filming of a documentary on Tuesday August 15, 2023, from 6am-10am and 3pm-8pm and the fees to be waived.

V. ***Business***

A. Approval of Agreements with Friends of Herring River to Support Herring
Chair Carboni recused herself from this agenda item.

River Restoration Project Implementation~ Carole Ridley & Christa Drew
Drew spoke to the board explaining what this agreement is and how it will benefit the town. Curley expressed his concerns about the length of time it has taken the town administrator to respond to the grant agreement request that was submitted in January and the inadequacy of the initial grant agreement that was put before the board in May, the amount of time between then and now shows. Waldo stated that all documents have been before town counsel. Blakely spoke to the board asking who oversees the day-to-day operations. Waldo stated that Wes Stinson is the project manager who sees the day-to-day operations. Ridley spoke to the accusations made from Curley she explained why this process was such a long one and stated there were many approvals and pieces that needed to be put together. She gave more information on this project and modifications that were made. Sayre continued to question the board, agreeing with Curley. DeVasto stated he was the person who was afraid it would delay the project and then was told it wouldn't Wolf asked to hear more from Sayre and his objections, explained his objections.

Board Member Curley Moved; Board Member DeVasto Seconded; and it was voted to authorize the town of Wellfleet to approve and execute an agreement with Friends of Herring River to allow the use of up to \$375,000. In technical Assistance funds granted to the Town by US Department of Agricultural Natural Resource Conservation Service for the purpose of completing construction plans and bid documents for the Chequesset Neck Bridge, low-lying road elevation and culvert replacements, and work to protect structures on three private properties.

Roll Call Vote: 4-0-1

B. Approval of concept/layout of the proposed wastewater treatment facility system and leaching fields, 95 Lawrence Hill Project ~ David Formato, Onsite Engineering

Formato, spoke to the board explaining the project and showing them a larger map of what they have in their packets. He spoke to the different aspects of the project. He spoke of Phase 1 and Phase 2. He gave details of each phase. The board had some questions concerning the IA septic tanks, Formato stated that in the original plan, but they have since learned there were better recommendations for the project. Wolf also questioned the air pumps and the sound that they make he asked will the sound be addressed as it won't affect the abutters. Formato explained that the tanks are in a soundproof room and the noise would be a very dull background sound. They discussed the "nuts and bolts" of the project. Sayre spoke to the board again; he questioned what was the closest private well to the leaching fields. Formato explained where the closest wells were. Curley asked if a backup power supply would be included at a higher percentage of design completion? Formato confirmed that this was the case and discussed furl options. Waldo asked about potential noise from the backup power supply. Formato stated it would have similar noise mitigation features. Blakely spoke to

the board questioning if the town will be taking care of it or will there be someone designated to take care of the project. Waldo stated he wasn't sure who would be taking care of the project, but it would be addressed in the future. Formato explained how this system would be run. Blakely questioned if the someone at the DPW would be trained and licensed for this. Waldo stated it takes time for a class 4 license. Explaining there are more details that need to be worked out. Ahern questioned that there was someone who was approved at town meeting. She continued to speak to the board. She interrupted the board and there was a point of order called.

Board member Curley Moved; Board Member Seconded; and it was voted to approve the schematic 95 Lawrence Hill Development Treatment Facility Site Plan and Effluent Disposal System Site Plan as shown in drawings C-1 and C-2 prepared by Onsite Engineering, Inc. dated May 31, 2023, and to authorize Onsite Engineering to proceed into the design and permitting of those layouts for the purpose of securing a Groundwater Discharge Permit from Mass DEP.

Roll Call Vote: 5-0

C. Town Meeting Warrant ~ Review and voting on remaining articles.

Chair Carboni asked Waldo to discuss the warrant and remaining articles.

Waldo shared his screen; he began by announcing that there will be childcare at town meeting on September 18th. He moved on the Articles 1 and 2 which the board will reserve recommendation until August 15th when the warrant will be closed and sent to the printer. He moved on to the 95 Lawrence Road Wastewater Treatment Facility, he explained the changes that town counsel and bond counsel made and why these changes were made.

Board Member DeVasto Moved; Board Member Reconsider the vote to insert and recommend the article on 95 Lawrence Hill Wastewater Treatment Facility Phase 1

Board member DeVasto moved; Board Member Wolf Seconded; and it was voted to insert and recommend the Lawrence Hill Wastewater Treatment Facility Phase 1.

Roll Call Vote: 5-0

Waldo moved to the Enhanced Innovative & Alternative Septic Program article; he explained the changes of that article.

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to recommend the article for enhanced innovative & Alternative Septic Program

Roll Call Vote: 5-0

The moved on to the Maurice's Campground, housing planning funds, Waldo explained this is on the warrant as a failsafe in case the ARPA grant wasn't approved, he stated they have the application in for the ARPA grant. The board discussed and agreed to take no action on this item and wait to see if the funds are granted and if not, the article should be removed.

No Action was taken.

Waldo moved on to the Inclusionary Zoning Bylaw Amendment

Board Member Curley Moved; Chair Carboni Seconded; and it was voted to insert the Zoning Bylaw Amendment, Inclusionary Zoning into the fall special town meeting warrant.

Roll Call Vote: 5-0

Board Member Curley Moved, Board Member DeVasto Seconded; and it was voted to insert and recommend the Zoning Bylaw Amendment, Cottage Colonies into the special fall town meeting warrant.

Roll Call Vote: 5-0

The board discussed the intensity of use of multi-family dwellings.

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to insert the Zoning bylaw amendment – intensity of use of Multi-Family Dwellings.

Roll Call Vote: 5-0

Board Member Curley Moved; Board Member Wolf Seconded; and it was voted to recommend the Zoning Bylaw amendment – intensity of use of Multi-Family Dwellings.

Roll Call Vote: 4-0-1 (DeVasto Abstained)

Zoning Bylaw Amendment- Definition of Trees was the next article to be voted on.

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to insert and recommend the Zoning Bylaw Amendment – Definition of Trees into the special fall town meeting warrant.

Roll Call Vote: 5-0

Zoning Bylaw Amendment – Cutting of Timber was discussed; Sayre spoke to the board about this article. He stated some seashore policies and his concern.

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to insert Zoning Bylaw Amendment-Cutting of Timber into the special fall town meeting warrant.

Roll Call Vote: 5-0

There was discrepancy on the Local Notable Trees, Curley stated that it was referred to the Planning Board for a public hearing, Board Member Bacon agreed that is what she remembered. Eldridge stated she listened to the meeting but would go back and listen again. No action was taken.

Animal Control Bylaw was discussed next, Waldo explained that he sat down with the animal control officer and had spoken with town counsel. Curley wanted to split the articles moving article 4 to its own.

Chair Carboni asked Waldo to separate them and bring it back to the board at the next meeting. There was more discussion on dogs on the beach. Chair asked about the revision of the article.

No Action was taken on this article.

Curley asked him to clarify the special election warrant. Waldo explained there are 2 questions, he stated what they were. He explained why one of the articles were removed. Waldo stated he will do his best to get documents in for the packet, but he will have the final product by Tuesday's meeting.

- D. Draft Response from town counsel regarding Open Meeting Law Complaint filed, June 28, 2023, Judith Ahern.**

Waldo explained the process on the draft response. Curley spoke to the complaint, he stated he disagreed with town counsel, stating he believed there was a breach of confidentiality. Curley wanted to strike the entire paragraph. Chair Carboni disagreed with the entire paragraph. Chief Pauley spoke to the accusation stating he resents his character being called out. Ahern wanted to address the board, she yelled at the board stating that the board was lying. She was asked by the police to be removed. The board recessed the meeting for 15 minutes. While Ahern was asked to leave the meeting.

The meeting reopened at 9:28pm strike the first sentence.

Board Member Bacon Moved; Chair Carboni Seconded; and it was voted to approve as amended the letter written by KP Law in response to the open meeting law filed on July 25, 2023, filed by Jude Ahern, and send to the Office of the Attorney General.

Roll Call Vote: 3-0-1 (Curley Abstained)

VI. *Selectboard Reports*

There were no reports given at this time.

VII. *Town Administrator's Report*

Waldo stated his full report is in the packet and gave a few brief updates. He discussed the fire suppression system at the elementary school, and it should be online or close to by the time school reopens in the fall. Bacon questioned the DPW director issuing parking at Mao Beach. Discussion with Harbor or Beach about portable toilets at the pier closer to the harbormaster's office.

Curley spoke about dredging and questioned Waldo if he had submitted the plan, Waldo stated that he had submitted the plan. Curley stated that Waldo did this without the approval of the board and there are financial matters regarding the plan that had not been resolved.

Chair Carboni spoke to the board about attending the Cultural Council meeting. Curley questioned the injury report with the shellfish constable, he questioned what equipment the town must avoid these accidents in the future.

VIII. *Topics for Future Discussion*

Dredging plan/contract funding question, and alternatives to the mitigation program.

IX. *Vacancy Reports*

X. *Minutes*

A. July 11, 2023, No Action was taken, there were many amendments that needed to be sent to Eldridge.

B. July 13, 2023 – No Action was taken, there were many amendments that needed to be sent to Eldridge.

C. July 18, 2023 – No Action was taken, there were many amendments that needed to be sent to Eldridge.

D. July 25, 2023 – No Action was taken, there were many amendments that needed to be sent to Eldridge.

XI. *Adjournment*

Board Member Moved; Board Member Seconded; and it was voted to adjourn the meeting.

Roll Call Vote: 5-0

DRAFT Amended ***A full recording of this meeting can be found on the town's website***

Meeting Adjourned: 10:15pm

Public Documents:

Community Preservation Grant with amendments

Updated Documents from Verizon for the placement of conduit

Use of Town Property applications from Jillian Minahan & Minivan Productions

Agreement for the Herring River Restoration Project

Maps for the layout of the wastewater treatment facility system at Lawrence Hill

Draft Warrant for Special Fall Town Meeting

Open Meeting Law Documents with KP Law's response

Town Administrator Report

Meeting Minutes of July 11, 13, 18, & 25th

**Wellfleet Selectboard
Hybrid Meeting
715 Old Kings Highway/Zoom
Tuesday August 15, 2023; 7pm
Meeting Minutes**

Members Present: Barbara Carboni, Chair; John Wolf, Vice Chair; Michael DeVasto (joined the meeting virtually at 7:35pm); Kathleen Bacon; Ryan Curley

Others Present: Rich Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Meredith Ballinger, Assistant Health Agent; Hillary Greenberg-Lemos, Health Agent Eastham; Alex Nelson, Outer Community Solutions; Jay Norton, DPW Director; Nancy Civetta, Shellfish Constable; Suzanne Thomas, Community Service Director; Rich Pauley, Fire Chief; George Harris, Commission on Disabilities; Kate Clemens, Commission on Disabilities; Robert Dupuis, Commission on Disabilities, Helen Miranda Wilson, resident; Chris Merl, resident; Lezli Rowell, health agent for the town of Provincetown; Diane Brunt, shellfish person; Sean Tanzi, resident, Brad Morse, resident; Karen Johnson, Chair of the Shellfish Advisory Board; Tim Sayre, resident; Chris Allgeier, Dredging Task Force; Kevin LaRocco, Acting Police Chief; Curt Felix, dredging task force; Dan Robbins, GEI; David Holstrom, resident; Ginny Parker, resident. Chair Carboni called the meeting to order at 7:00pm

I. *Announcements and Public Comments*

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

Curley spoke to the board about the mosquitos at Duck Harbor and the area will be treated.

Bacon spoke to the board announcing that a party for Angel Robinson would be held on Friday August 18, 2023, to celebrate his 22 of service to the town.

Wilson spoke to the board stating that she would not be running as a write in candidate for the Selectboard.

Merl spoke to the board asking if the shellfish constable's letter about corporations, chair Carboni explained that they would address any questions.

II. *Consent Agenda*

A. Final agreement for Mayo Creek grant acceptance ~ Jay Norton
Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to authorize the town administrator to accept a NRCS grant of \$100,000.

Roll Call Vote: 4-0

III. *Board/Committee Appointments and Updates*

A. Commission on Disabilities, presentation to the board ~ Applications for ADA Planning and Project Grants Awarded by the MOD.

Harris, Clemens, and Dupuis spoke to the board discussing the need for grants, and the need for the town to become more accessible to residents and visitors

with disabilities. Dupuis spoke about his background and him being from Canada where they just passed a law about accessibility to people with disabilities and all government buildings in Canada will be handicapped accessible. He stated he feels that some of his general knowledge he felt he could contribute to the commission. Harris gave a background on the commission and what they have been doing for many years. He spoke to the renovations the town has gone through and then stated that the transition plan on ADA compliance hasn't been updated in many years and the state person he spoke with stated the town may not be ADA compliant. He spoke about the plan and what needed to happen in order for the town to be compliant. Thomas spoke to the board stating that if they are able to get the bandstand at the pier up to standards to be handicapped accessible, they should be able to receive the grant. Bacon questioned the ability to replace the ramp at the elementary school. Chair Carboni thanked the commission for their work in this presentation, stating the board looks forward to seeing their grant applications.

IV. Business

- A. Outer Cape Wellness Happenings ~ Regional Public Health Efforts from Eastham to Provincetown ~ Meredith Ballinger, Hillary Lemos, Alex Nelson** Nelson spoke to the board sharing her screen presenting to the board and public what the Outer Cape Community Solutions Network is and what the outer towns are working together for. Her slide show presented how the towns are coming together. Explaining that they are a rural health network. Nelson spoke to the full spectrum of health, and the different resources available. She spoke about the partnerships with the surrounding towns, and why it is important for the partnership to happen. She spoke about why they just work with the outer cape. She continued to speak about all the group have accomplished since they joined forces. Curley questioned a pathway that can be achieved in a relatively quick way to regionalize all four towns. Lemos spoke to the board stating that they have been working on regionalization. Stating that policies and regulations are different in each town. Waldo spoke to the demand of mental health has put on the town's health departments.

- B. Letter from Selfish Constable addressing licensing of grants to corporations or other business entities.** Civetta came to the table to discuss her letter addressing corporations and other business entities. She stated she felt that the shellfish department wanted the public to know where the department was coming from, I regard to corporations. Merl stated he wished Civetta didn't take any stance on corporations. He felt she blew up the town by not voicing her opinion. Merl continued, that he was upset that his time as wasted, and the town's money was wasted. Brunt spoke to the board, agreeing with Merl, stating she didn't feel that speaking to shellfishermen while they are working is inappropriate. Civetta stated that she feels she tried to stay extremely neutral. Chair Carboni stated she felt this was going to be a long discussion and one that they could have at the public hearing on September 5, 2023.

C. Shellfish Grant Lottery – Constable Civetta

Civetta spoke to the board about the grants, giving the timeline for these grants. Bacon spoke to the board asking Johnson to come forward and speak about wanting the grants to go out to lottery. Johnson spoke about being a lottery winner and the other grants that have come up for lottery. She spoke about her letter. Bacon followed up with a comment stating she was proud that Johnson was the new chair of the SAB and stated she felt Johnson would do a lot of good work for the board.

D. Special Town Meeting Warrant ~ vote to insert and recommend any outstanding articles and to close the Special Town Meeting Warrant.

Waldo began with stating that there was an intent to finalize and close the warrant. He explained there were three petitioned articles submitted at the end of the day on August 14th. Waldo went over the warrant and the changes that have been made since the selectboard packet was printed on the previous Thursday. It was asked when the warrant needed to go to the printer, he explained the warrant would go to the printer on Friday August 18th. Bacon also asked how much the town is asking the taxpayers.

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to recommend Article 1 Budgetary Transfers into the special town meeting warrant.

Roll Call Vote: 5-0

Waldo stated that the original article 5 Maurice's Campground Funding was removed as the funds couldn't be made so it was withdrawn, He did state that the ARPA funding has been approved.

Board Member Curley Moved; Board Member Wolf Seconded, and it was voted to reconsider the previous vote to insert the article for Maurice's Campground Housing Planning Funds.

Roll Call Vote: 4-0 (DeVasto vote)

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to remove article for Maurice's Campground housing planning funds from the special town meeting warrant.

Roll Call Vote: 4-0 (DeVasto absent due to technical difficulties).

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to recommend the Inclusionary Zoning Bylaw

Roll Call Vote: 4-0 (DeVasto Absent due to technical difficulties)

Board Member Curley Moved; Board Member Bacon Seconded, and it was voted to insert and recommend the Zoning Bylaw Amendment Article for Locally Notable Trees in the fall special town meeting.

Roll Call Vote: 4-0 (DeVasto absent due to technical difficulties)

Waldo continued going over the warrant articles that needed to be voted on. He spoke to the animal bylaw and the changes that were made with the Animal Control Officer.

Board Member Curley Moved; Board Member Bacon Seconded, and it was voted to insert the General Bylaw Amendment Animals on the Beach.

Roll Call Vote: 5-0

Board Member Curley Moved; Board Member Bacon Seconded; and it was voted to recommend the General Bylaw Amendment Animals on the beach. Roll Call Vote: 3-2-0 (DeVasto & Curley Abstained)

Waldo brought up the three petitioned articles that were presented to clerk on August 14th. Curley questioned the status of discussions with the property owners. Morse spoke to the board about the concerns that residents and shellfisherman have with the dredging. Felix spoke to the board about the summaries in the petitioned articles not being legally factual. Petitioned articles go on the warrant without amending them. There was more discussion on this warrant article.

Board Member Bacon Moved; Chair Carboni Seconded; and it was voted to defer Article 15 petitioned article dredging mitigation to prohibit the inclusion of privately owned land in the dredging mitigation without agreements with the property owners.

Roll Call Vote: 4-0-1 (DeVasto Abstained)

Disposition of town owned land was the next petitioned article to be discussed. Morse spoke to this article as he was the petitioner. He stated that in speaking with town people they want this to go to town meeting. Morse read the bylaw. Article 3, Section 7. Wolf read the bylaw to the public. The bylaw was discussed and the meaning of it regarding the dredging.

Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to defer article 16 petitioned dredging mitigation article, disposition of town owned land until Town Meeting.

Roll Call Vote: 4-0-1 (DeVasto abstained).

Waldo explained the third petitioned article. Dredging mitigation funding amendment.

Board Member Bacon moved; Board Member Wolf seconded; to recommend the dredging mitigation funding article.

There was more discussion and after more understanding.

Board Member Bacon withdrew her motion to recommend the article.

Board Member Bacon Moved; Board Member Curley Seconded; and it was voted to defer the dredging mitigation funding article until town meeting.

Roll Call Vote: 3-1-1 (DeVasto abstained; Wolf voted no).

Board Member Curley moved; Board Member Bacon Seconded; and it was voted to close the special town meeting warrant.

Roll Call Vote: 5-0

E. Dredge Mitigation Plan – Status update on submission

Public comments on alternative plans instead of mitigation.

Allgeier spoke to the board regarding the mitigation plan stating that it was submitted to the Army Corps of Engineers. He read the amended language to the board and public. Bacon read a statement to the board and public, she stated the mitigation plan is a good plan and provides the town the means for the expense of the dredging. She spoke in favor of the dredging and gave many reasons in her two-minute comment. Wolf responded to Bacon's comments stating he agreed with her concern with obtaining a dredging contract in the future with future dredging companies. Robbins spoke to the board explaining a little more

about the culching and the Audubon property. He also stated that within the mitigation plan the constables have been involved in making sure the shellfish community was involved. The conversation on dredging continued for a length of time. The concerns of an unfunded liability. Curley spoke to the mitigation plan. He stated he would be more comfortable with the plan if there were a feasibility study. He spoke about alternatives and his uncomfortableness with the plan. Wolf questioned the task force about an alternative splitting the dredging into three parts. Robbins spoke to breaking the dredging into three separate permits. He stated that no three permits couldn't be done. HE stated you can't piecemeal the permits. Holmstrom spoke to the board thanking Bacon for her statement on the issue. He stated that he wished there would be more of a time limit on speakers. He stated his confusion on the liability of the town. Brunt spoke again about Robbins stating at another meeting that they can split the permits. Sayre spoke to the board making a few points about the warrant and money being spent and if it passes then he explained there are issues.

F. Funding Operating Expenses associate with Dredging Mitigation Plan ~ Ryan Curley

The board moved on to the expenses regarding operating expenses with the dredging mitigation plan. Curley explained this agenda item. HE spoke about third party monitoring for the dredging and the need to fund it through appropriation. He stated that at the July 18th meeting he asked for a warrant article before the special election warrant closed and stated it didn't happen. Waldo responded to Curley comments and accusations. Stating there is a lot of burden put on town staff when the board asks them to carry out. Explaining the funding and the amount of time to meet the objective. Curley and Waldo disagreed on the views of town counsel. Wolf stated that it had been his understanding from town counsel that they didn't need to go to town meeting because it had already been approved at a previous town meeting. Sayre spoke to the board about Curley's documents submitted. Curley stated the thing to consider is the fact that the town can cover year one of the dredging.

Felix made a final comment on Curley's earlier comments, about the probability of success. He spoke about due diligence.

Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to direct the town administrator to contact bond counsel regarding the operating expenses associated with dredging mitigation.

Roll Call Vote: 4-0-1 (DeVasto Abstained).

G. Regional Dispatch Study – Request for support of grant submission, with Eastham, Provincetown, and Truro to fund a regional feasibility study.

The board moved on to the letter requesting the surrounding towns requiring funding options for the towns to assist the outer cape to put together a feasibility study for a regional dispatch, Waldo explained the letter and the need for the grant for this study. Brunt spoke to the board asking to explain are they moving forward with the dredging, how can they do that with the petitioned articles.

Board Member Bacon Moved; Board Member Curley Seconded; and it was voted to approve the draft letter for partnering municipalities and direct

the appropriate staff to fill out and send the letter to the state 911 department.

Roll Call Vote: 5-0

Board Member Bacon Moved; to CHECK RECORDING

Waldo explained how these articles would work.

V. **Selectboard Reports ~ Chair Carboni stated the rest of the meeting would be skipped due to the time of the meeting, these would be added to the September 5, 2023, meeting.**

A. Prior Affiliations ~ Chair Barbara Carboni

B. Selectboard Goals FY2024 – Review and prioritize Town-wide goals.

VI. **Topics for Future Discussion**

VII. **Minutes**

A. July 11, 2023

B. July 13, 2023

C. July 18, 2023

D. July 25, 2023

E. August 8, 2023

VIII. **Adjournment of open Session to move into Executive Session: M.G.L. c.30A, Sec. 21**

- **Purpose 1:** To discuss the reputation, character, physical condition, or mental health, rather than professional competence, of an individual, to discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual.

- **Purpose 7:** To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.

Executive Session Meeting Minutes ~ June 27, 2023

Chair Carboni Moved; Board Member DeVasto Seconded; and it was voted to adjourn open session and enter executive session.

Roll Call Vote: 5-0

Open Session Adjourned at 10:35pm

Public Documents:

Agreement for Mayo Creek Grant Acceptance

Letter to the board from the Commission on Disabilities members

Slide show presentation from the Outer Cape Wellness Happenings group

Letter from the shellfish constable addressing corporations.

Letter and maps from the shellfish department concerning Shellfish grant Lotteries.

Documents concerning Dredging operating costs.

Letter addressed to the 911 in support of a grant submission with Eastham, Provincetown, and Truro to fund a regional feasibility Study.

Documents regarding chair Carboni's Prior Affiliations

Selectboard Goals

Meeting Minutes July 11th, July 13th, July 18th, July 25th and August 8th.

**Wellfleet Selectboard
Hybrid Meeting:
715 Old King's Highway/Zoom
Tuesday August 22, 2023; 6pm
Meeting Minutes**

Members Present: Barbara Carboni, Chair; John Wolf, Vice Chair; Kathleen Bacon, Michael DeVasto, (virtual); Ryan Curley

Others Present: Rich Waldo, Town Administrator; Rebekah Eldridge (virtually), Executive Assistant; Carolyn Murray, KP Law; Chris Merl, resident; Brade Morse, resident; Diane Brunt, resident; Curt Felix, Dredging task force member, John Tansey, Resident; Evan Shellfisherman; Tim Sayre, Resident; David Mead-Fox, Resident; Karen Johnson, Chair of the Shellfish Advisory Board; Dan Robbins, GEI Consulting; David Ricketts, resident; Lisa Dexter, resident; Ginny Parker, resident.

Chair Carboni Called the meeting to order at 6:04pm

I. *Announcements, and Public Comments*

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

Chair Carboni first asked the board members if they had any announcements. No one did, Carboni explained that a public hearing would be held on September 5, 2023, at 7pm to go over the Shellfish Regulations.

Merl spoke to the board reading a letter asking for the board to schedule a public hearing to go over the shellfish constables job description.

Brunt spoke to the board, asking for clarification on what a recused selectboard member is allowed to do during a meeting. Chair Carboni explained that a recused member can participate in a meeting as an individual, he or she is allowed to give personal opinions. They are not permitted to vote on anything while they are recused.

DeVasto spoke to the board reading a specific paragraph from the ethics website pertaining to what a Selectboard member can participate in as a individual.

II. *Business*

A. Discussion and potential vote on Dredging Mitigation

Chair Carboni asked Waldo to speak to the board and public regarding the dredging mitigation. Waldo began stating that town counsel was on the meeting to answer any questions that the board or public had. He explained that he met with town counsel to render an official opinion on the petitioned articles and the impact those articles would have on the dredging.

Murray began explaining that she was asked on August 21, 2023, to put together a formal opinion regarding the mitigation plan. She explained the petitioned articles that were brought before them to be put on the special town meeting warrant. She stated that the contract for the bids was due to expire on the 23rd of August.

Murray questioned the chair if she would like her to go through each article or would she prefer that she give her final opinion.

Murray began with the dividing up the first two articles and then have a discussion on the third petitioned article.

Murray explained to the board and public; breaking it down stating they need to recognize the separation of powers. She spoke about the powers that the selectboard has and how the courts have defined them. She continued that there is the legislative branch which is town meeting, and the executive branch with is the selectboard. She stated the legislative body is not supposed to encroach on the executive body, nor is the executive branch supposed to encroach on the legislative body. She explained the legislative functions. She spoke about the City of Pittsburg, giving it as an example stating that the city council was able to direct the mayor of the city to enter contracts. She gave specific examples of what the legislative body's responsibilities are, and what the executive body's responsibilities are.

She stated that if town meeting, approved these two petitioned articles, the one that seeks to make sure the town doesn't enter into mitigation until the town has secured any agreements with private parties. Or the second article that instructs the selectboard to switch the parcel within Blackfish creek, she stated that these two in her opinion if they were approved at town meeting, feels that this is a case where the legislative branch is encroaching on the executive branch and explained that the moderator of town meeting can call these articles out of order. She continued on to the 3rd petitioned article. She stated that she felt this article was from the 2019 article, which was cut and pasted; and language was added. She explained that the 7.5 million for dredging had already been borrowed in 2019. She stated she felt the wording of this article was incorrect. To date none of the borrowed authorized funds have been used for mitigation. She stated when discussing funding the mitigation plan, the bond proceeds can only be used for something in which the town has authorized to use the money, she gave some examples of how the bond proceeds can be used. She spoke of article 3 chapter 70. She spoke about the titled lands and the property owned by the town, Mass Audubon and the Commonwealth of Massachusetts. She said currently there is no town meeting vote pertaining to that bylaw.

She answered the question of what happens if the town doesn't meet the Metrix or the goals of the 25 oysters per square meter. She stated as she reads it there is supposed to be annual reporting of the oyster mitigation, along with an ongoing dialog with the town and the Army Corp of Engineers. She stated that the selectboard could decide that the mitigation plan isn't working, they could pay the fee the compensatory fee for not dredging the area.

Curley stated that rather than having a disorganized discussion, go through each article to have questioned answers.

Curley questioned if private property owners were to require an easement rather than a license agreement by the town would it require a town meeting vote.

Murray explained that Mass Audubon could grant an easement or enter into a license which she explained could be problematic as a license if revokable and is more liable to the town. She stated that if the town needed an easement, it

would need a town meeting vote. Curley asked if the same was true with private property owners.

Chair Carboni spoke to the public stating that she wanted to allow the public to have a block of time be given to participants of the public, so that they are not being constantly cut off at the 2-minute time limit. There was a conversation on how the discussion with the public would be held and how the process would proceed. It was decided that each article would be addressed one at a time.

Wolf spoke to the board about the process and explained to the public the goal of the board is to allow them to discuss their concerns and have the time to do so. The discussion continued and Curley spoke to the second petitioned article. He questioned Murray what would happen if the town owned property included the title flats. Murray stated there is still a question if there needs to be a town meeting vote for disposition of town owned land. She explained about a recorded restriction, the authority of the board to temporarily close areas to shellfishing. Discussing change of use. Wolf questioned article 2, the closure of the area temporarily during the mitigation process, legally speaking he asked how it plays out if it closed for 3 years (per Department of Marine Fisheries) and then opened for 1 day, and then closed for another 3 years. He stated that doesn't seem like the definition of temporary. Murray explained that the Selectboard could close town land for a period of time giving an example about a tornado hitting a school, the board would close the school for safety concerns. She stated the board has the authority to close an area of land that is town owned.

Curley spoke about the bonding and funding of this mitigation agreement. He questioned Murray about the labor and third-party monitor. He questioned that her opinion those monies would have to come out of the shellfish budget? She stated it didn't need to come from that specific budget but the money that was borrowed couldn't be used for anything other than the mitigation as described in Chapter 70.

Discussion on the second petitioned article ensued and funding and costs associated with this article. Detailing what could be a town meeting article and what didn't need to be done. The use of the money from borrowing was discussed and detailed. Wolf gave a hypothetical situation about if the town couldn't do what they have stated and needing to budget for additional employees, and it didn't pass at town meeting. Murray explained that if the town couldn't perform the duties they committed to perform under the mitigation agreement then the town needs a "Plan B" if town meeting won't fund additional employees, would town meeting agree to hiring a consultant, if it reaches a point where there is no way to get approval of town meeting the selectboard is in the position of going back to the Army Corp and renegotiate the plan with them. She stated the mitigation plan language does make it clear that anything that the town is required to do is subject to appropriation of funds at town meeting.

Bacon questioned Murray that on the last page of the opinion, it is possible the selectboard may decide to pay the fee to the army corps at year three would the

town have been at least paying down the cost to the corp. would they be able to come up with a buy out for less, like a credit.

Waldo answered that he would defer to the Dredging Task Force, stating that from his understanding the town may get credit for the work completed. The Corp will take into consideration the work that the town has done with the dredging. Bacon asked how it works with inflation. Waldo explained he wasn't sure how the corps would do that.

Curley made a comment stating that a concern is that the town might be underestimating the amount of effort that will be required to be expended to achieve the metric. He stated Bob Wallace stated that it would require a lot of tender loving care which he believed that it would require someone on the land to make sure the metrics could be met. He stated he was worried about the cost and that it was underestimated, and the liabilities that go along with it.

Chair Carboni stated the board would take comments on the petitioned articles now with a two-minute limit, and later in the meeting a larger amount of time would be allowed regarding the mitigation plan.

Tansey spoke to the board stating there was a lot of uncertainty, he questioned the role of the finance committee. Stating he was on the finance committee; for over ten years in the town of Lennox, continuing that when there were any projects in that town over a million and one dollars their committee was tasked with going to the selectboard and give their opinions and information on those large projects. He questioned who oversaw the money on Wellfleet. He continued talking about the funds that the town is receiving, beach stickers, hotel/room tax fees. He stated he felt the town is on the hook for all this money going down many generations. He stated that he has hired at a municipal lawyer if the mitigation agreement is signed, the group will go to the courthouse on Wednesday morning to file an injunction.

Brunt asked if Murray was asked just yesterday to give an opinion. Murray explained that she has been in many conversations about dredging over the past weeks but was asked yesterday to write something up to be able to give the board and public in her opinion as town counsel. Brunt asked for an explanation of legislation verses executive bodies. Murray explained each to her and the public. Murray explained that with article 3 of the petitioned articles was cut and pasted from 2018 and it is asking to borrow another 7.5 million dollars. Brunt asked if it was borrowing, and Murray explained that it was not borrowing and what town meeting can do is appropriate the funds. Brunt had other questions about authority of shutting down the area. Murray explained her opinion. Brunt asked if Murray had read the mitigation plan, Murray explained that she did read and then pointed out where in the plan that funds were subject to the appropriation of funds. She stated that was her language, and the last sentence stated the funds had already been appropriated.

Evan spoke to the board about the petitioned articles, he stated the town hasn't made any sort of other plans explaining that he spoke to home and landowners that they had no idea there was a five-year plan with the Army Corps. He stated he is worried about what might happen to his grant on Black Fish Creek.

Morse spoke to the board and questioned Murray about Duck Creek, about a certain parcel wasn't town owned property, Murray corrected him with the right parcel numbers. It was discussed who owned the surrounding properties, Murray stated that it looked as though the Commonwealth of Massachusetts, and the Massachusetts Audubon were the abutting owners.

Murray explained the understanding of bond counsel; Sayre continued to ask about the legalities.

Chair Carboni stated that at this time in the meeting she would allow for the group which she considered Brunt the leader of to have 20 minutes to discuss the mitigation plan and alternatives to that plan.

Brunt got up and spoke to the board and public, reading a statement asking the board to vote to end all further support of the adaptive mitigation plan in favor of alternatives; they have concluded that signing into a mitigation plan with the Army Corps of Engineers is detrimental to the citizens of Wellfleet. She stated that after reading town counsel's report they feel this is even more absurd. She continued giving the reasons this plan is harmful for the town. They have no direct link to the Army Corp. She stated taking 28 acres of resident's property in perpetuity that doesn't allow them to use their property, leaving them the ability to no longer use that property. Brunt continued to express her group's opposition to the dredging and mitigation plan. She explained she and the group believe it will fail.

Morse spoke to the board again stating his concerns and why he is against entering into a contract with the Army Corps. He gave his reasons on why he believes this is against the town Bylaws. He read a letter that was submitted to the Selectboard by the Shellfish Advisory Board. He continued explaining his reasoning on why the mitigation plan is not right for the town of Wellfleet.

Brunt got up again and spoke about other alternatives. Going to town meeting trying to raise all or a portion of the dredging costs. She stated one of the main issues with this plan is that there is no direct communication with the Army Corps. She stated that there are only a small group of people that are allowed to speak with them and that that group has misinformed the public.

Merl spoke to the board stating that there are so many questions for this plan and no answers being given. He stated that the contract is so open ended, that it shouldn't make sense to enter into a contract with so many open-ended questions.

Mead-Fox spoke to the board asking about the property owners of where the mitigation would take place. He asked if the town knows which is which with regard to the commonwealth and the Audubon. Waldo gave an explanation on who owns which parcel of land. He spoke to the board about thinking through the mitigation plan, and as someone who hasn't listened to the rumors that have been town wide. He stated he feels that the way it is written, and he had read it many times, he stated why would anyone think this wouldn't work. He would think that it would work, and renegotiation is possible. He stated the longer they wait the more it will cost the town.

Tansey spoke to the board as to why Aberdale was removed from the discussions, Bacon explained that Aberdale stepped down on his own. Tansey disagreed.

Wolf spoke to the public, discussing going to town meeting to go through with this plan. He stated he has been uneasy with this plan and wants to see the dredging move forward for the town. Bacon made a statement that this is a gift for Wellfleet, the town has had a bid for the dredging for over 18 months. She stated they could get it done, by saving the taxpayers money. Curley stated that there are three articles that have been petitioned articles for special town meeting. He gave the regulations for special town meeting petitions and annual town meeting petitions. He felt the board should give the time for these articles to be heard at town meeting. He continued explaining why Blackfish Creek was chosen as there isn't much fishing there and it is a potential issue if that area needs to be moved. He stated that the board hold off onto entering into a finalized mitigation agreement.

Chair Carboni stated that it was discussed earlier that the dredging could be broken into three parts, Waldo referred to Robbins to see what the process of dividing it up and prorating them. Robbins explained that the number of credits for this could be reduced, rescinding the application from the Army Corps. He explained what prorating means and what it would mean for the dredging project, he stated the corps would think of this as a piece meal project.

It was asked to Waldo what was expected of the board tonight, he stated it was expected for the board to make a vote on the mitigation plan, do they support it and submit it or do they vote to not support it and wait to special town meeting. Does the board want to continue to work through the plan. He stated the contractor needs to know what that decision is.

Wolf stated that there is a mooring field of boats that if the boats needed to be moved if there was a decision made.

Ricketts spoke to the board about the restraining order/injunction that was mentioned previously in the meeting. He stated that if the group went to the court with this how would that affect the September 5th meeting and the special town meeting. Murray explained that she couldn't answer as it hasn't happened yet. She gave an example of the courts stating that sometimes these take a short amount of time and sometimes they take months.

Johnson spoke to the board addressing when the mitigation plan was brought to the advisory board, and it was presented as a done deal. She stated at that time it was 14 acres when it was brought to them. She stated that the shellfishing community is not against dredging however they are against the mitigation plan, she stated this is costing the shellfishing community money that they could be bringing in as part of their business.

Brunt questioned Robbins about a comment he made on May 2, 2023; she stated he told them in order to pro rate the permit they needed to resubmit the permit for the acreage they were looking to dredge. Robbins responded, stated he met with the Army Corps of engineers and the opinion that was presented to them from the Army Corps. Dexter spoke to the board about fishing in the wild stating that it is very difficult to get more than 100 oysters in the wild. Stating

that unless there is something to be done from the management aspect of those areas, mistakes can't be made and moving forward with the mitigation would cause mistakes.

There were more comments from Sayre; about money voted on for the dredging at town meeting, not the mitigation plan.

Felix spoke to the board about the Dredging Task Force has taken a lot of criticism about this plan and there was a lot of character assassination. He stated there have been a lot of slanders to him and his business. He stated that most of the people that are against this plan have grants and aren't expected to fish in the wild. There was an argument about Felix's credentials, he was asked what degrees he has; he explained all of his schooling and degrees.

There were more comments from the audience that had spoken previous. Once the comments were finished from the audience the board agreed tonight a vote needed to be made.

Board member Wolf Moved; Board Member Bacon Seconded; to approve the mitigation agreement as presented.

Chair Carboni asked if there was discussion. Curley stated that he would vote against.

Wolf recrafted the motion to state that the board does not approve the mitigation agreement as presented.

Board Member Wolf Moved; Board Member Bacon Seconded; to approve the mitigation agreement as currently submitted.

Roll Call Vote:

Wolf: NO

Carboni: NO

Curley: NO

Bacon: ABSTAIN

DeVasto: RECUSED

It was voted not to submit the mitigation plan as presented tonight.

Waldo explained that tomorrow the Army Corps of Engineers would be notified tomorrow to withdraw the mitigation plan and he would contact the bidder explaining it has been put on hold. He stated that he would continue on how they would move forward with the town meeting.

Bacon thanked all who were involved with the discussions on the mitigation plan and negate the expense of the dredging.

III. *Minutes*

- A. July 11, 2023 – **Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to approve the meeting minutes of July 11, 2023; as amended. Roll Call Vote: 5-0**
- B. July 13, 2023 – **Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to approve the meeting minutes of July 13, 2023, as amended. Roll Call Vote: 4-0-1 (Bacon Abstained)**

- C. July 18, 2023, these were taken in two parts – **Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to approve the meeting minutes as amended up until Business A.**
Roll Call Vote: 5-0
Board member Bacon Moved; Board Member Curley Seconded; and it was voted to approve the remaining meeting minutes of July 18, 2023, as amended.
Roll Call Vote: 4-0-1 (Bacon Abstained)
- D. July 25, 2023 – **Board Member Bacon Moved; Chair Carboni Seconded; and it was voted to approve the meeting minutes of July 25, 2023, as amended.**

Roll Call Vote: 5-0

Waldo spoke to the board on the meetings scheduled for September. The board continued to keep the meetings as scheduled. Of another meeting needed to be scheduled they would do so.

Pickard questioned how long it would take for the minutes to be posted. It was stated by Eldridge that they would be posted first thing tomorrow morning.

IV. *Adjournment*

Board Member Bacon Moved; Chair Curley Seconded; and it was voted to adjourn the meeting.

Roll Call Vote: 5-0

Meeting adjourned 9:15pm

Public Documents:

Dredging Mitigation Plan

Town Counsel Report on Mitigation.

Meeting Minutes

July 11, 2023

July 13, 2023

July 18, 2023

July 25, 2023



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: September 5, 2023

XII

ADJOURNMENT

REQUESTED BY:	Selectboard Chair Barbara Carboni
DESIRED ACTION:	To Adjourn the meeting
PROPOSED MOTION:	I move to adjourn
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____