



SPECIAL TOWN MEETING

Monday September 18, 2023

6:00 PM

at

Wellfleet Elementary School

100 Lawrence Road, Wellfleet, MA

&

SPECIAL TOWN ELECTION

Wednesday September 27, 2023

at

12:00 Noon to 7:00 PM

Wellfleet Senior Center

715 Old King's Highway

FINAL

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FINANCIAL & PROPOSITION 2½ TERMS

Chapter 59, section 21C of the Massachusetts General Laws is commonly referred to as Proposition 2½ (Prop. 2½) or the Tax Limiting Law for Cities and Towns in Massachusetts.

LEVY: The property tax levy is the revenue a Town can raise through real and personal property taxes. The property tax levy is the largest source of revenue for the Town.

LEVY CEILING: This is the maximum the levy can be. The ceiling equals 2.5% of the Town's full and fair cash value. The levy ceiling is equivalent to a tax rate of \$25.00.

LEVY LIMIT: The maximum the levy can be in a given year. The limit is based on the previous year's levy limit plus certain allowable increases, such as debt exclusions.

LEVY LIMIT INCREASE: The levy limit automatically increases each year by 2.5% of the previous year's levy limit.

NEW GROWTH: New construction and new parcel subdivision may also increase the Town's levy limit.

OVERRIDE: A community can permanently increase its levy limit by successfully voting at a referendum to exceed the limits. A community may take this action as long as it is below the levy ceiling.

DEBT EXCLUSION: This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the Town's levy limit is increased only for the amount voted at the referendum for the life of that debt only. The levy limit increase may exceed the Town's levy ceiling.

DEBT SERVICE: The repayment cost, usually stated in annual terms and based on an amortization schedule, of the principal and interest owed on any particular bond issue.

ENCUMBRANCE: A reservation of funds to cover obligations chargeable to but not yet paid from a specific appropriation account.

CAPITAL OUTLAY EXPENDITURES EXCLUSION: This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling only for the year in which the project is being undertaken.

CONTINGENT VOTES: Chapter 59, section 21C (m) permits a Town Meeting to appropriate funds contingent upon passage of a referendum question (OVERRIDE/DEBT EXCLUSION). A contingent vote does not automatically result in an override referendum. An override referendum can only be called by the Selectboard. If a referendum is called by the Selectmen, it must take place within forty-five days of the Town Meeting vote.

TOWN MEETING PROCEDURES

A quorum of 6% of the Town's registered voters must be present to conduct business (Charter: Sect. 2-1-3).

Voters are identified by voter cards issued when they check in with the registrars at the beginning of the meeting.

Only voters may participate in voice votes. In case of a counted vote, voters will be identified by their voter cards.

Non-voters who have been admitted to the meeting must sit in the section designated for them. Non-voters who may wish to speak must identify themselves and may address the meeting only by permission of the Moderator (Charter: Sect. 2-1-2).

No voter will be allowed to speak until recognized by the Moderator.

Voters and others recognized to address Town Meeting may only speak twice to any motion or amendment unless authorized by the Moderator (Charter: Sect. 2-7-8).

All motions or amendments must be in writing and be legible. Exceptions for very simple motions or amendments are at the discretion of the Moderator (General Bylaws: Sect. II-2).

The order of consideration of the Articles as printed in the Warrant may be changed only by a 2/3 majority vote (Charter: Sect. 2-7-4).

A motion for indefinite postponement, if passed, ends any action on the motion currently being debated. It may only be made after a voter has been recognized and may not come at the end of a speaker's remarks. It is fully debatable to the same extent as the main motion under consideration.

A motion to end debate (known as a "motion for the previous question") may only be made by a voter who has been recognized. Anonymous calls from voters to "call the question" are out of order and will be ignored by the Moderator. A motion to end debate requires a separate 2/3 majority vote, so it may be more efficient to hear from one or two more speakers and then proceed to a vote on the main motion itself.

A motion to reconsider must be made at the same session as the vote it seeks to reconsider. It can only be made after some intervening business and must be made within one hour of the vote to be reconsidered (Charter: Sect. 2-7-9). It is debatable to the same extent as the motion it seeks to reconsider and requires a majority vote. A motion to reconsider will only be allowed if there is new information that was not available at the time of the original debate. A motion to reconsider will be ruled out of order if, in the judgment of the Moderator, it is simply an attempt at "another bite at the apple."

Some other common motions which require more than a simple majority to pass:

Zoning bylaws	2/3 majority (with some statutory exceptions)
Zoning bylaws subject to Housing Choice Act	majority
To authorize borrowing or incur debt	2/3 majority
To transfer or sell Town land	2/3 majority
To approve proposed Charter amendments	2/3 majority
To pay unpaid bills of a prior fiscal year	4/5 majority at an Annual Town Meeting 9/10 majority at a Special Town meeting

FINANCE COMMITTEE STATEMENT

The Finance Committee is comprised of volunteer Wellfleet residents who are chosen by our Town Moderator. We meet monthly throughout the year with the purpose of serving as an advisor to the Selectboard, the Town Administrator and most importantly, the Town Meeting, regarding financial matters affecting the town.

The past year has seen Wellfleet move toward stabilizing The Town finances. The Finance Committee expects to continue to move forward in a fiscally responsible way. Despite the challenges, the Town Administrator, Richard Waldo, is making steady progress in establishing new standards for town financial management in the face of significant changes in personnel and Select Board

Currently the Finance Committee is preparing for the upcoming budget season, which is right around the corner.

For anyone interested in the Finance Committee discussions, we invite you to attend our meetings live or view the recorded version, available on the town website. The scheduled dates and agendas are posted on the town calendar.

Respectfully Submitted: Kathy Granlund Chair

Jen Rhodes, Vice Chair, Fred Magee, Stephen Polowczyk, Jeff Tash, Bob Wallace, Ira Wood.

SPECIAL TOWN MEETING WARRANT

Monday, September 18, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet in the Wellfleet Elementary School, 100 Lawrence Road in Wellfleet on the 18th day of September 2023, at six o'clock in the evening, then and there to vote upon the following Articles:

SECTION I: BUDGET ARTICLES

ARTICLE NO. 1 – FY 2024 BUDGETARY TRANSFERS:

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within FY 2024 appropriations such sums of money necessary to supplement the operating budgets of the various Town Departments as follows:

	From (Decrease)	Line Item	To (Increase)	Line Item	Amount
a.	Beach Fund	FND	Beach Expenses	699	\$ 23,070
	Grand-Total				\$ 23,070

or to do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend Yes – 5, No – 0, Abstain – 0.

Finance Committee: Recommendation deferred until Town Meeting

SUMMARY: This article is seeking permission to transfer funding within the FY 2024 operating budget ending June 30, 2024. We have shortfalls in various departmental budgets that will be remedied by transferring monies from those areas within the budget that have surpluses.

ARTICLE NO. 2 – LAWRENCE HILL – WASTEWATER TREATMENT FACILITY – PHASE I:

To see if the Town will vote to modify the vote taken under Article 21 of the June 2021 Annual Town Meeting for the 95 Lawrence Road Cluster Wastewater Treatment Facility, which authorized borrowing the sum of \$1,931,886 for this purpose, by amending the source of borrowing from General Laws Chapter 44, Section 8, or any other enabling legislation, including the Massachusetts Water Pollution Abatement Trust, to the Massachusetts Clean Water Trust, or otherwise, under and pursuant to General Laws Chapter 111, §121B½, and further, to see if the Town will vote to appropriate a sum of money, not to exceed \$2,668,114 for the purpose of, designing, permitting, and constructing wastewater facilities in conjunction with an affordable housing project at 95 Lawrence Road, including connecting nearby Town buildings in Phase I, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectboard be and hereby is authorized to borrow said amount under and pursuant to Chapter 44 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust or otherwise, under and pursuant to General Laws Chapter 111, §121B½ or pursuant to any other enabling authority including the Massachusetts

Water Pollution Abatement Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Finance Committee: Recommendation deferred until Town Meeting

Wellfleet Housing Authority: Votes to recommend 5-0

SUMMARY: The Town is contractually obligated as part of the 95 Lawrence Rd Housing Project’s Request For Proposals to provide for advanced wastewater treatment facilities located at this site. The plan is to install a cluster system servicing both the housing project and the Wellfleet Elementary School, the Police Station, and Fire Station in Phase I. Connecting these town-owned buildings will result in a net improvement of water quality in the neighborhood even after accounting for the housing project. Phase II is planned to connect a number of the surrounding properties to this system which will cost significantly less money than individual septic system upgrades, a centralized sewer system, or any other means evaluated.

The Town has submitted a grant application to the MassWorks Infrastructure Program to fully fund the construction of the wastewater treatment facility and connection of nearby municipal buildings. It is expected that the Town will receive notice of an award around October/November 2023. If the Town is awarded grant funds then it will not be necessary to borrow funding through the Clean Water Trust (CWT) program. If we only receive a portion of the funding from MassWorks then the remaining balance will be borrowed from the CWT program.

Per the Land Development Agreement, the developer of housing at 95 Lawrence Road is required to enter into a reasonable cost-sharing agreement to support a percentage of the cost of designing and constructing such wastewater infrastructure. Should the Town obtain a grant to fund construction of the centralized treatment facility the developer will not be required to pay a portion of the project. If the Town needs to borrow to fund the construction then a portion of the construction cost will be the responsibility of the developer. However, the Town may waive that contribution if it is determined that an overall benefit to the projects success will result.

This borrowing request will amend and supplement a previous borrowing authorization allowing the Town to seek competitive borrowing from the State Revolving Fund which will open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 25% of the project cost.

Assuming a 20-year note, the additional borrowing authorization would impact the average home valued at \$789,700 approximately \$29/year.

ARTICLE NO. 3 – ENHANCED INNOVATIVE & ALTERNATIVE SEPTIC PROGRAM:

To see if the Town will vote to modify the vote taken under Article 4 of the April 2023 Annual Town Meeting relative to Item 7B, which authorized borrowing the sum of \$200, 000 for Enhanced Innovative & Alternative Septic Systems by amending the source of borrowing from General Laws Chapter 44, Section 7, or any other enabling legislation, to the Massachusetts Clean Water Trust, or otherwise, under and pursuant to General Laws Chapter 111, §121B½ or pursuant to any other enabling authority including the Massachusetts Water Pollution Abatement Trust, or take any other action in relation thereto.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Finance Committee: Recommendation deferred until Town Meeting

SUMMARY: This would allow the Board Health to provide assistance to homeowners who need to replace their septic systems. This assistance corresponds with the incremental cost of enhancement to upgrade to an “enhanced” IA system. Upgrading these systems to high performance I&A systems can reduce nitrogen similar to the levels obtained with a wastewater treatment plant, thereby improving the groundwater quality and reducing the nutrient loading of Wellfleet Harbor at a significantly reduced cost compared with sewer connection. The funding sought is a \$12,500 grant to property owners to pay for the additional costs to upgrade to one of these “enhanced” IA systems when their pre-existing system is required to be upgraded. This grant would keep the cost of the septic the same as what is already required under title 5 and will encourage the use of an enhanced IA system. Upgrading septic systems will be a critical element in addressing the Town’s wastewater needs.

There is already a total borrowing authorization of \$250,000 from Annual Town Meeting in June of 2021 for I/A septic enhancements that meets the requirements of the Clean Water Trust Program. This article will amend borrowing authorization approved at April of 2023 Annual Town Meeting to include language sufficient for the Clean Water Trust Program that will allow borrowing through the State Revolving Fund and open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 50% for projects costing less than \$1 million dollars.

ARTICLE NO. 4 – TOWN PLANNER – NEW STAFF:

To see if the Town will vote to raise and appropriate and/or transfer from any available source of funds the sum of \$145,000.00, or any other sum for the purpose of funding a Town Planner position; provided, however, that no sums shall be expended hereunder unless and until the Town has voted to assess an additional \$145,000.00 in real estate and personal property taxes pursuant to the provisions of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½), or do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Finance Committee: Recommendation deferred until Town Meeting

Wellfleet Housing Authority: Votes to recommend 5-0

SUMMARY: This article would fund the cost of hiring a Town Planner, including salary and benefits. The lack of a dedicated Town Planner is severely impacting the town's ability to address land use and long-range planning. Planning is one of the tasks assigned to the Assistant Town Administrator. The Assistant Town Administrator position is overburdened regardless of who the Assistant Town Administrator and that results in initiatives and committees not receiving the support they need. A Town Planner is essential for Wellfleet to form a functional administration. The lack of dedicated Town Planner results in the burnout of staff. Wellfleet needs to address its underinvestment in the professional positions that are essential to governing. A dedicated Planner would support the Building Commissioner and the ZBA in zoning enforcement, assist in developing bylaws, the development of housing initiatives and programs.

The annual tax impact on the average home valued at \$789,700 is approximately \$32/year.

SECTION II: BYLAWS, INITIATIVE PETITIONS

ARTICLE NO. 5 – ZONING BYLAW AMENDMENT – INCLUSIONARY ZONING:

To see if the Town will vote to amend Chapter 235, Article II DEFINITIONS by inserting the following new definitions in alphabetical order and to amend Chapter 235, Article VI by adding a new Section 6.28 Inclusionary Zoning Bylaw as follows:

§235 - 2.1 Definitions

Affordability Gap – the difference between the appraised value of a market-rate dwelling units within the proposed development and the appraised value of an affordable housing unit in Wellfleet comparable to the market-rate unit in terms of type, size, and number of bedrooms and calculated at the time of sale or issuance of a certificate of occupancy, whichever occurs sooner, for any market-rate unit in the proposed development. The applicant shall submit an appraisal of the development in question that was prepared by a licensed appraiser approved by the Town using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Town may obtain an expert peer review of the appraisal at the applicant's expense.

Affordable Housing Unit - a dwelling unit that is affordable to and occupied by a Low- or Moderate- Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory maintained by the Department of Housing and Community Development.

Affordable Housing Restriction – A deed restriction entered into and enforceable under G.L. c. 184, §§31-33 in a form acceptable to the Town that restricts occupancy of an affordable housing unit to a low- or moderate-income-eligible purchaser or renter and which provides for the administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law.

§235 – 6.28 INCLUSIONARY ZONING BYLAW

§235 – 6.28.1 Purpose and Intent

The purpose of this bylaw is to encourage the development of housing that is affordable to persons of various ages and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” bylaws for the creation of affordable year-round housing, and for the purposes of:

- A. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and,
- B. Encouraging the creation of a range of housing opportunities for households of all incomes, ages, and sizes in order to support a strong, stable, and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Wellfleet residents;
- C. Mitigating the negative impact of residential development on the availability and cost of housing;
- D. Protecting the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land; and
- E. Creating dwelling units eligible for inclusion on the Town’s Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

§235 6.28.2 Applicability

In the CD, R1, R2, C, and C2 zoning districts, the inclusionary zoning provisions of this section shall apply to any project that results in a net increase of three or more dwelling units as part of a single application, whether by new construction, a change in use, or by the alteration or rehabilitation of existing structures, provided, however, this bylaw shall not apply to nursing homes

§235 6.28.3 Mandatory Provision of Affordable Housing for Development of New Residential Units

In order to contribute to the local stock of Affordable Housing, any residential project that results in a net increase of three or more dwelling units as part of a single application as described in Section 6.28.2 shall provide a percentage of the dwelling units as deed restricted Affordable Housing units. This Affordable Housing requirement shall be one-sixth (1/6) of the number of new dwelling units to be developed rounded up to the nearest whole number and shall be made a condition of a Special Permit, or the applicant shall meet the requirement in accordance with the following:

- A. Development of 3 to 6 new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and a Payment in Lieu of providing the required number of affordable units to be made to the Wellfleet Affordable Housing Trust Fund to fulfill the Affordable Housing requirement.
- (1) Payment shall be made in accordance with the following formula:
 - For 3-4 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(1/9)x(affordability gap)
 - For 4-6 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(1/6)x(affordability gap)
 - (2) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
 - (3) The Payment in Lieu shall be due:
 - a. upon the issuance of a certificate of occupancy of any market-rate unit in the development; or.
 - b. The total Payment in Lieu shall be divided by the total number of market rate units in the development, and the resulting quotient shall be payable upon the closing of each market rate unit
- B. Development of 7 or more new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and at least one-sixth (16.67%) of the new units created shall be established as Affordable Housing units, which shall be rounded up to the nearest whole number and shall be made a condition of a Special Permit, in any one or combination of methods provided for below:
- (1) The Affordable Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with §235 6.28.4; or
 - (2) The Affordable Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with §235 6.28.4, provided justification is provided that on-site development of said units is not feasible and off-site development of said units is beneficial to the Town, and applicable Building or Zoning Permits are granted contemporaneously for both developments; or
 - (3) A Payment in Lieu of providing Affordable Housing units shall be made to the Wellfleet Affordable Housing Trust Fund. Payment shall be made in accordance with the following formula:
 - a) For 7 or more new dwelling units, the Payment in Lieu = (total # of new dwelling units)x(1/4)x(affordability gap)
 - b) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
 - c) The Payment in Lieu shall be made upon the sale or certificate of occupancy of each market-rate unit, whichever occurs sooner or
 - (4) A Land Donation in Lieu of providing Affordable Housing units shall be provided to the Wellfleet Affordable Housing Trust, provided that:
 - a) The receiving organization agrees in writing to accept the land;

- b) The applicant demonstrates to the Zoning Board of Appeals' satisfaction that the land may support the future development of Affordable Housing;
- c) The value of donated land shall be equivalent to or greater than the value of the required Payment in Lieu. The Zoning Board of Appeals may require, prior to accepting the donations of land to the Wellfleet Affordable Housing Trust as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Zoning Board of Appeals may obtain expert peer review of the appraisal at the applicant's expense; and
- d) Closing on the land donation shall occur before the issuance of the first building permit.

§235 6.28.4 Provisions Applicable to Affordable Housing Units Located On-Site and/or Off-Site

- A. Affordable Housing units created in accordance with this bylaw shall have a deed restriction and Regulatory Agreement to regulate the future re-sale or rental of the unit and that requires the units to remain income restricted in perpetuity or the longest period allowed by law. Said deed restriction and Regulatory Agreement shall be consistent with the forms used in the Local Initiative Program and Regulatory Agreement approved by DHCD. The Regulatory Agreement shall be prepared in a form acceptable to Town Counsel by the Applicant and submitted for review and approval. The Regulatory Agreement will be executed by the Applicant, the Town of Wellfleet and DHCD and shall be recorded with the Barnstable County Registry of Deeds or and
- B. The applicant shall be responsible for preparing and submitting any documentation that may be required to receive Local Action Unit approval from DHCD and to qualify the Affordable Housing Units for listing on the SHI. The applicant shall also be responsible for providing annual compliance monitoring and certification to the Town or its monitoring agent and to pay for the costs of the Town for providing such compliance monitoring.
- C. No Building Permit shall be issued for any units in the development until the Zoning Board of Appeals receives evidence that the Affordable Housing deed restriction has been approved by DHCD or by Town Counsel.
- D. No Certificate of Occupancy shall be issued for any units in the development until the Building Commissioner receives evidence that the Affordable Housing deed restriction has been executed and recorded at the Barnstable County Registry of Deeds or that the Payment in Lieu has been made in accordance with this bylaw or as modified by the Special Permit conditions.
- E. Affordable Housing units shall be integrated with the rest of the development or with the off-site location and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- F. The number of bedrooms in each Affordable Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Zoning Board of Appeals in consultation with the Wellfleet Housing Authority.
- G. Owners and tenants of on-site Affordable Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.

- H. The development of Affordable Housing units shall take place at the same rate and timeframe as the development of market rate units.
- 1) Building Permits for any phased development shall be issued at a ratio of no greater than five (5) market rate units to one (1) Affordable Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
 - 2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable Housing units are occupied.
- I. All Affordable Housing Units created under this bylaw shall be occupied by income-eligible purchasers or tenants. No Affordable Housing Unit created under this bylaw shall be used as a Short-Term Rental, as such term is defined by General Laws Chapter 64G.

§235 6.28.6. Segmentation Prohibition

Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. “Segmentation” shall be defined as dividing one parcel of land into two or more parcels of land in that cumulatively results in a net increase of three or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section.

§235 6.28.7 Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental to existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

§235 6.28.8 Severability

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

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 4, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to Not recommend 3-0

SUMMARY: Inclusionary zoning leverages the private market to help in providing the affordable housing needed in the community. Wellfleet still has enough parcels where inclusionary zoning could

result in small, but measurable positive impacts on affordable housing construction. This is an approach that is successfully being used in many other, municipalities. Inclusionary Zoning is one of the recommendations in Wellfleet’s Housing Production Plan that was approved by the Selectboard and Planning Board in the Spring.

This bylaw allows for the creation of affordable housing as part of a development that resulting a net increase of three or more housing units. The affordable units created under this bylaw could be either onsite or in a separate location. The bylaw applies to new construction, a change of use, or rehabilitation of structures.

Developers would have the option of donating funds or a buildable parcel of land to the Wellfleet Affordable Housing Trust rather than building the affordable units on site. The payments to the Trust or value of donated land would be based on a formula ensuring the fee is equivalent to the value to the units that would otherwise have been created.

ARTICLE NO. 6 – ZONING BYLAW AMENDMENT – COTTAGE COLONIES:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II DEFINITIONS by deleting text that is ~~struck through~~ and inserting text that is underlined as follows:

§235 - 2.1 Definitions

Cottage Colony - A group of two or more detached dwellings located on the same lot not within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft.

Cottage Colony NSP - A group of two or more detached dwellings located on the same lot within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. and occupied on a seasonal basis only. Seasonal shall be defined as a period commencing April 1 of each calendar year and terminating November 30 of the same calendar year. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to Not recommend 3-0

SUMMARY: The changes in floor area bring a number of the pre-existing cottage colonies into compliance with zoning. 250 sq ft of floor area is the minimum allowed for two people to reside in per state codes. Wellfleet has a number of cottages in colonies that are well below 550 sq. ft. An example is Brownies cabins out of a total of thirteen cottages, nine are below 550 sq. ft. This would also enable a property owner to build a cottage colony with modest structures that could serve as homes for those just starting on their own or are looking to downsize. The change from 768 sq ft to 800 sq ft is a reflection that there are cottage colonies where there are units that are slightly over 768 sq. ft. 800 sq ft also is a standardized

size that is easy to measure. Cottage Colonies would remain permitted by special permit only in the districts they are currently allowed in.

ARTICLE NO. 7 – ZONING BYLAW AMENDMENT – INTENSITY OF USE OF MULTI-FAMILY DWELLINGS:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws, Chapter 235, Article V – Uses, Section 235-5.4(F) by deleting the text that is ~~struck through~~ as follows, or to do or act on anything thereon:

§235 - 5.4(F)

~~Intensity of Use Application to Multiple Family Dwellings. The first unit of a multiple family dwelling or of an apartment building shall require a minimum land area equal to the lot requirements of the district in which located. Each additional unit will require 8,000 square feet of land area. Front, side and rear yard and maximum building coverage requirements of the district in which the structures are located shall apply. (Amended 4/30/85 ATM, Art. 64.)~~

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 4, No – 0, Abstain – 1.

Bylaw Committee: The Committee voted to recommend 3-0

SUMMARY: Multifamily Dwellings are allowed by special permit in the Commercial District. The minimum lot size in the commercial district is 40,000 square feet. The requirement to have an additional 8,000 sq ft effectively prohibits multifamily housing on a significant proportion of lots in the Commercial District and limits the number of potential dwellings as well. This does not change the number of bedrooms allowed on a parcel, just how they are configured. The intent here is to provide a greater opportunity for diversity in Wellfleet’s housing stock to better suit the needs of our population.

ARTICLE NO. 8 – ZONING BYLAW AMENDMENT – DEFINITION OF TREES:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II – Definition **§235** 2.1 by inserting the following new definitions in alphabetical order or to do or act on anything thereon:

Community Wildfire Protection Plan (“CWPP”): A plan developed in the collaborative framework established by the Wildland Fire Leadership Council and agreed to by the local government, local fire department, federal land management agencies managing land in the vicinity of the planning area, and

other stakeholders. A CWPP may address issues such as wildfire response, hazard mitigation, community preparedness, or structure protection - or all the above.

Invasive Plants: Plant species identified by the Massachusetts Invasive Plant Advisory Group as Invasive, Likely Invasive, or Potentially Invasive.**[Link for reference](www.massrnc.org/mipag)**

Locally Notable Trees: Native trees with a girth of 120 inches or greater measured at breast height (4.5') or below the lowest branching trunk, whichever is less. Or tree species listed as Endangered, Threatened, or of Special Concern by MassWildlife’s Natural Heritage & Endangered Species Program Massachusetts

Timber: Woody plants and trees with a girth of sixteen (16) inches measured at breast height (4.5’) or below the lowest branching trunk, whichever is less.

Tree Thinning: Tree removal in an immature forest stand that reduces tree density and between-tree competition performed by a certified arborist.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to recommend 3-0

SUMMARY: This adds definitions to the Zoning Bylaws in regards to trees and timber. This contains no applications of the definitions in and of themselves, but the definitions can be utilized by other bylaws.

ARTICLE NO. 9 – ZONING BYLAW AMENDMENT – CUTTING OF TIMBER:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VI – General Regulations by amending §235 -6.9 by deleting text that is ~~struck through~~ and inserting text that is underlined as follows:

§235.6.9.1 CUTTING OF TIMBER WITHIN NSP

Within the National Seashore Park District, there shall be no cutting of timber except as permitted for the following reasons:

- (a) By an owner for the purpose of reasonably controlling brush or trees;
- (b) Maintenance cutting in pastures;
- (c) Cutting for clearance or maintenance on right-of-way including those pertaining to public utilities or public highways, provided said clearance or maintenance complies with Chapter 200, the Town’s Scenic Road bylaw, as applicable. .

(d) as specified in a **Community Wildfire Protection Plan** by the Wellfleet Fire Department or the National Park Service.

(e) the removal of Invasive Plants .

Exemptions:

This section shall not apply to federal, state or municipal projects.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 4, No – 0, Abstain – 1.

Bylaw Committee: The Committee voted to Not recommend 3-0

SUMMARY: This updates the “Cutting of Timber”. The assumption is that the current bylaw dates to the 1960s, and there was not much of an awareness of the detrimental impacts of most invasive species, and fewer were considered invasive. A Community Wildfire Protection Plan [CWPP] is seeks to mitigate some of the risks of a wildfire to life and property and would be developed under the aegis of the Town and the Park. As of now, there is not a CWPP but the park does issue fire safety recommendations to property owners, so this provision is future looking.

ARTICLE NO. 10 – ZONING BYLAW AMENDMENT – LOCALLY NOTABLE TREES:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VI – General Provisions by inserting a new Section §235- 6.9.3 as follows:

§235 6.9.3 Locally Notable Trees

Recognizing the value large older trees provide to wildlife and the unique role they play in the ecosystem they should be preserved whenever possible. No removal of or trimming of **Locally Notable Trees** shall be permitted until all necessary permits and approvals have been obtained unless there is an immediate threat to public safety, structures, or utilities.

§235 6.9.3.1 Removal of **Locally Notable Tree** shall require a special permit from the Zoning Board of Appeals as the **Special Permit Granting Authority, pursuant to §235-8.4B.** Any application for the removal of a **Locally Notable Tree** shall be referred to the **Conservation Commission** for comment prior a hearing per Ch. 40A, Sec. 9 before the Special Permit Granting Authority. A priority shall be placed on retaining these trees during the course of any construction activities or site plan and or landscaping.

§235 6.9.3.2 Applications for the trimming of a **Locally Notable Tree** shall be made to the Tree Warden and must include a letter from a certified arborist that the trimming poses little risk to the health of the tree

prior to any such work being performed and such applications are subject to the approval of the Tree Warden. Said trimming includes that of the Tree’s root system. If the Tree Warden or Arborist determines that the trimming of a **Locally Notable Tree** poses a threat to its health, they shall refer the matter to the Special Permitting Authority, who will refer it to the Conservation Commission for comment prior to the hearing.

§235 6.9.3.3 EXEMPTIONS

This section shall not apply to the removal of **Invasive Plants**, diseased trees, or those posing an imminent threat to people, structures, roadways, or utilities .

This section shall not apply to federal, state, or municipal projects.

§235-6.9.3.4 Special Permits

The Board of Appeals acting as the SPGA, may grant a special permit for the removal of a **Locally Notable Tree** if it reaches a finding that there is no viable alternative to said removal.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 4, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to Not recommend 3-0

SUMMARY: It also requires a special permit for removal or for the trimming that may pose a risk to the health of very large trees. Very large trees provide extensive ecosystem benefits as well as often natural playgrounds. This also clarifies and strengthens the prohibition of the cutting of timber in the NSP.

ARTICLE NO. 11 – ZONING BYLAW AMENDMENT – ZONING ENFORCEMENT PENALTY:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article VIII – Administration, Section 8.3 Penalty by deleting the ~~striketrough~~ language and adding the underlined language as follows, or take any other action relative thereto.

[Amended 6-26-2021 ATM by Art. 45]8.3 PENALTY

~~8.3 Penalty Any person violating any of the provisions of these Bylaws may be fined not more than \$50.00 for each offense, except in the case of violations of Section 6.21 Accessory Dwelling Units, the fine shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.~~

§ 235-8.3 Penalty.

- A. Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined \$300 for each offense. Each day that such a violation continues shall constitute a separate

offense. This bylaw may be enforced by noncriminal disposition pursuant to the provisions of General Laws Chapter 40, Section 21D.

- B. **Accessory Dwelling Units:** Any person, association, firm or corporation violating § 235-6.21 Accessory dwelling units (ADU), may be fined \$300.00 for each offense. Each Accessory Dwelling Unit in violation shall be a separate violation. Each day that such violation continues shall constitute a separate offense. This bylaw may be enforced by noncriminal disposition pursuant to the provisions of General Laws Chapter 40, Section 21D.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to recommend 3-0

SUMMARY: The maximum allowed fine under MGL Ch 40a Section 7 for zoning infractions is \$300 dollars per violation. Most Massachusetts municipalities have adopted the maximum allowable fine. This does not mean that the fine is always \$300. With the exception of ADUs, the fine is at the discretion of the building commissioner. Enforcing zoning is expensive, and this provides both a means to recapture some of the costs based on the level of the infraction as well as providing the commissioner with additional leverage to address zoning infractions. ADUs are required to be occupied on a year-round basis, and clarifies that the fine is applied to each ADU out of compliance.

ARTICLE NO. 12 – GENERAL BYLAW AMENDMENT – MINIATURE “NIPS” BOTTLE BAN:

To see if the Town will vote to amend Chapter 187 (“Plastics and Other Environmental Hazards”) of the General Bylaw by inserting a new Article V – Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles as follows, , or take any other action relative thereto.

Article V Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles

§ 187-21 Ban on sale.

A. Effective on September 1, 2024, it shall be unlawful to sell or offer for sale alcoholic beverages in containers less than or equal to 100 milliliters in the Town of Wellfleet. Enforcement of this bylaw will begin September 1, 2024

§ 187-22 Enforcement.

A. Enforcement of this bylaw shall be the responsibility of the Town Administrator or his/her designee, and/or any police officer of the Town. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate.

B. Any individual and/or establishment conducting sales in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in G. L. Chapter 40 § 21D. The following penalties apply:

- First violation: Written warning
- Second violation: \$150 fine
- Third and subsequent violations: \$300 fine

C. Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Wellfleet.

D. All businesses will be routinely inspected until the Town Administrator deems the inspection to no longer be required.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to recommend 2-1

SUMMARY: Nips are miniature single-serve liquor bottles made of plastic or glass. The plastic nip bottles are not recyclable, due to their small size, nor are nips bottles covered by the state bottle redemption law. Nips litter is a pervasive problem, dotting roadsides and beaches. A Falmouth group surveyed litter on that town’s roadways in 2021 and found that nips made up 32% of roadside garbage. The reason nips end up on roadsides is a public health and safety concern. Nip bottles are a convenient way to consume alcohol while driving and dispose of the container out the window. In 2018, data showed Chelsea received 742 alcohol related emergency calls. Chelsea's ban passed that year and by August of 2019, that number had decreased to 128 calls of the same kind. Nips bans are now in effect in Chelsea, Falmouth, Mashpee, Newton, Wareham, and Nantucket. The two Martha’s Vineyard towns that sell nip bottles, Oak Bluffs and Edgartown, passed nip bottle bans earlier this year.

ARTICLE NO. 13 – GENERAL BYLAW AMENDMENT – ANIMAL CONTROL REGULATIONS:

To see if the Town will amend the Wellfleet General By-Laws by amending Chapter 111 by deleting the ~~strike through~~ language, and adding the underlined language as follows, or take any other action relative thereto.

Article I
Animal Control

[Adopted 6-26-2021 ATM by Art. 47 (Art. XV of the General Bylaws)]

§ 111-3 **Definitions.**

For the purposes of this bylaw, the following terms shall have the following definitions:

SUMMER SEASON

The period between the third Saturday in June through Labor Day between the hours of 9:00 AM and 5:00 PM.

DOMESTICATED ANIMAL

Any of various animals that have been tamed and made fit for a human environment. Excludes service animals while they are providing a service as defined in M.G.L. Chapter 272, Section 98A.

DANGEROUS DOG

Any dog that either: (1) without justification, attacks a person or domestic animal causing physical injury or death; or (2) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

§ 111-4 **Dog licensing.**

Dogs must be leashed.

~~All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), the Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this section.~~

- A. Any person residing in the Town of Wellfleet, who at the beginning of the license period (January 1 to December 31), or who during the license period, becomes the owner or keeper of a dog six months old or over, shall cause the dog to be licensed within 30 days. The Town Clerk shall issue dog licenses and tags based on the completion and the approval of the dog license application form that is available on the Town's website. The completed form, along with the required additional documentation, can be brought to the Town Clerk's office or sent to the Town Clerk by mail.

- B. An applicant for a dog license will also bring to the Town Clerk's office or send to the Town Clerk by mail the following required additional documentation:
 - (1) Copy of current rabies certificate.

- (2) Copy of spaying/neutering certificate (if not noted on rabies certificate).
- (3) Self-addressed envelope with sufficient postage (license will be held in office if a completed return envelope is not enclosed).
- (4) Check made payable to "Town of Wellfleet" for the total of the licensing fee.
- C. On the license form, the Town Clerk shall record the name, address, mailing address, email address, phone number and the date of birth of the owner or keeper of the dog, and the name, age, breed, sex, and description of each dog. Each tag shall include the license number, the name of the Town and the year of issue.
- D. The owner or keeper of the dog shall cause each dog to wear around its neck or body a collar or harness to which they shall securely attach the license tags. In the event that any license tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at the cost of \$1. Such moneys shall be transmitted to the Town of Wellfleet in the same manner as license fees.
- E. The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies, or a veterinarian's certification that such dog is exempt from the vaccination requirement, or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.
- F. The fee for each dog license shall be \$10 unless a certificate from a veterinarian stating that the dog has been spayed or neutered, or a statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable, is presented to the Clerk, in which case the fee for each dog license shall be \$5. No fee shall be charged for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder, in accordance with G.L. c. 140, § 139(c).
- G. The Clerk shall collect a late fee of \$5 for every dog license issued after the first thirty-days into the licensing period, as defined in § 111-3 of this article.
- H. Any owner or keeper of a dog who moves into the Town of Wellfleet and has a valid dog license for his/her dog from another city or town in the Commonwealth shall, within 30 days, obtain a dog license from the Town of Wellfleet.
- I. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, or removal from the Town of Wellfleet or any other disposal of said dog.

J. This section shall not apply to a person to whom a valid kennel license has been issued under § 111-10, or a dog housed in a research institution.

K. Penalties shall be imposed as per § 111-11B(1).

§ 111-6 **Barking and other noise caused by dogs.**

A. No person owning, keeping or otherwise responsible for a dog shall allow said animal to annoy another person's reasonable right to peace or privacy by making loud or other continuing noise, where such noise is plainly audible at a distance of 100 feet from the building, premises, vehicle, or other means of conveyance or housing of said dog, or where such noise is continuing for 15 minutes. The fact that such noise is plainly audible at said distance or continuing in excess of 15 minutes on a daily basis shall be prima facie evidence of a violation.

B. Penalties shall be imposed as per § 111-11B(3).

§ 111-7 **Animals in parked vehicles.**

~~A. No animal may be left unattended in a parked vehicle at any time of year.~~

A. Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement has the possibility to endanger or does in fact endanger the health or safety of the animal shall be subject to a fine.

§ 111-8 **Licensing and regulation of dangerous dogs.**

C. Upon determination by the Animal Control Officer that a dog is dangerous, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint, remedial actions allowed under G.L. c. 140, § 157, or ~~disposal~~ humane euthanasia of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be dangerous and shall require the owner or keeper of such dog to comply with the requirements of this bylaw.

D. Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be humanely euthanized in accordance with the provisions of MGL c. 140, § 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. ~~If the Animal Control Officer determines that the dog is to be permanently given or sold to new owner, removed, the new owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the dog.~~

§ 111-9 **Control of dangerous dogs.**

C. No dangerous dog shall be licensed by the Town of Wellfleet for any licensing period unless the

owner or keeper of such ~~vicious~~ dog displays a sign not to exceed one square foot on his or her premises warning that there is a dangerous dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

- D. All dangerous dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises which does not have a locked enclosure or for any owner or keeper to allow any such dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the ~~vicious~~ dog, or to comply with the orders or directions of the Animal Control Officer and/or the Selectboard with respect to the ~~vicious~~ dog, or to comply with the provisions of these bylaws. In such event, the dangerous dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control and supervision of the owner or keeper of the ~~vicious~~ dog. Dangerous dogs shall not be permitted to run loose on any public or private way or any area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.
- E. ~~License revocation.~~ If the Animal Control Officer determines that a dangerous dog is being kept in the Town in violation of these bylaws or any order issued by the Animal Control Officer, or the Selectboard, or of any court, the Animal Control Officer shall so notify the Selectboard. After giving notice to the owner or keeper of the hearing, the Selectboard shall hold a public hearing on whether to ~~revoke the license of said dog or to take further action as outlined in G.L. c. 140, § 157,~~ including euthanizing the dog. If the Selectboard ~~revokes the license of~~ decides to take further action against said dog and does not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within 10 days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any dangerous dog found outside of its enclosure in violation of this bylaw or any order issued by the Animal Control Officer, Selectboard or any court.

§ 111-10 Kennel licenses, inspection and regulation.

- A. Requirement for kennel license. Any owner or keeper of four up to and including nine dogs, three months of age or older, being maintained at a premises, shall secure a Residential Kennel License. The Town Clerk shall not issue a Residential Kennel License unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that each dog ~~three~~ six months of age or older is currently vaccinated against rabies. Any owner or keeper of 10 or more dogs, three months of age or older, or of a premises maintained as a commercial kennel, shall obtain a Commercial Kennel License.
- B. Application and issuance of kennel license and fees.
 - (1) A Residential or Commercial Kennel License shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection of the kennel and a determination, made by the Animal Control Officer, that the basic standards of cleanliness, proper care, confinement, and adequate shelter of said dogs exist on the premises. The name and address of the owner or keeper of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog, ~~three~~ six months of age or older, is

currently vaccinated against rabies and kennel cough, shall be kept on file on the premises and available for inspection by the Animal Control Officer or any authorized persons. Such license shall be in the form prescribed by the Town Clerk.

G. Penalties shall be imposed as per § 111-11B(4).

§ 111-11 **Fines and penalties.**

B. These penalties shall apply to all violations of Wellfleet's General Bylaws, Chapter 111, Article I, except that:

(1) Any person who violates the provisions of § 111-4 shall be subject to a verbal or written warning for the first offense, a fine of \$50 for the second offense and a fine of \$100 for the third and any subsequent offenses.

~~(1) Section 111-4, Dogs must be leashed, and §~~

(3) Section 111-6, Barking and other noise caused by dogs. Owners or keepers of dogs found in violation shall be fined \$50 for each offense;

(4) Section 111-10, Kennel licenses, inspection and regulation. Kennel owners shall be subject to a penalty in the amount of \$50 per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

Article II
Dogs at Large

[Adopted as Art. VII, Sec. 25, of the General Bylaws]

~~§ 111-12 **Dogs in cemeteries.**~~

~~No person shall permit a dog to enter within the boundaries of any cemetery in the Town of Wellfleet.~~

§ 111-12. (Reserved)

§ 111-13 **Restraint requirements.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large may be restrained and impounded. The owner of any dog so removed shall be liable for boarding expenses at the pound at the rate established by the Animal Control Officer. The Town of Wellfleet Police Department (including special officers) and the Animal Control Officer shall have the authority to enforce this section. The provisions of this section shall not apply to Seeing Eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under control for aiding the deaf, nor to any dogs qualified as a service animal under the Americans with Disabilities Act or regulations promulgated thereunder.

§ 111-14 **Violations and penalties.**

Any dog found running at large will be removed and impounded. If it is the first offense subject to this

article committed by a person within a calendar year, the ~~payment of a fine of \$50 or a warning charge shall be~~ may operate as final disposition of the case ~~dismissed without the payment of any fine~~; if it is the second offense so committed in the calendar year, the payment of a fine of ~~\$25~~ \$100 ~~shall may~~ operate as final disposition of the case; if it is the third offense so committed in a calendar year payment of a fine of ~~\$30~~ \$300 ~~shall may~~ operate as final disposition of the case; if it is the fourth or subsequent offense so committed the payment of a fine of ~~\$50~~ \$500 ~~shall may operated~~ as a final disposition of the case. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), ~~and the Dog Officer~~ Animal Control Officer, ~~and any other officials whom the Selectboard may from time to time designate~~ shall have the authority to enforce this article.

(Requested by the Animal Control Officer)

Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 0.

Bylaw Committee: The Committee voted to recommend 3-0

SUMMARY: The proposed changes that are before you are needed to amend and update the existing animal bylaws. Upon review of the bylaws, it was found that some of the language had been disapproved by the Office of the Attorney General in correspondence from November 23, 2021, and needed to be amended within the bylaws. There currently is a licensing period for dogs in the bylaws' definitions but there is not a bylaw section regarding the registration of dogs with the town. The town registration of dogs is required under Massachusetts General Law. The addition of a clear bylaw setting out the town's process of dog registration as well as clearly defined penalties for the failure to register are needed. It was observed that the leash bylaw was listed in two separate Articles within the bylaws and needed both consolidation and updating. The updates would allow for both discretion in extenuating circumstances and increase the fine schedule to gain compliance from repeat offenders. The current bylaw that doesn't allow animals to be left unattended in parked cars for any amount of time and does not take into consideration circumstances where there is no danger to the animal's health or safety would be updated to be more in line with current Massachusetts General Law and allow for circumstances where there is no threat of danger to the animal's health or safety. The prohibition of dogs in cemeteries through the town bylaws would be removed as previously voted on and approved and the bylaw mandating the removal of dog waste would remain in effect.

ARTICLE NO. 14 – GENERAL BYLAW AMENDMENT – ANIMAL CONTROL REGULATIONS (BEACH):

To see if the Town will amend the Wellfleet General By-Laws by amending Chapter 111 by deleting the ~~struckthrough~~ language, and adding the underlined language as follows, or take any other action relative thereto.

Article IV
Domesticated Animals on the Beach

§ 111-18 Domesticated Animals Prohibited From Beach Areas:

- A. For purposes of this Article, the definitions contained in § 111-3 are incorporated herein by reference. In addition, the definition of Beach (as defined in §111-3) shall also include areas below the high water mark where shellfishing could or does take place.
- B. Domesticated Animals are prohibited from the lifeguarded portions of Newcomb Hollow, Cahoon Hollow, White Crest and Maguire Landing at LeCount Hollow between the hours of 9am and 5pm during the summer season (3rd Saturday in June – through Labor Day) except to walk from the parking lot to a point beyond the end of the guarded beach.
- C. Domesticated Animals are prohibited from the following saltwater beaches and landings: Burton Baker, Indian Neck and Nauset Road, Mayo Beach and Powers Landing.
- D. All owners and Keepers of any Domesticated Animal shall keep said Domesticated Animal under the owners and keepers' control so not to be a nuisance to bathers at all town landings and beaches at all times.
- E. Domesticated animals are prohibited in the following freshwater ponds and on the beaches of these ponds from May 15th through October 15th: Gull Pond, Long Pond, Great Pond, Duck Pond, Higgins Pond, the Sluiceway, Spectacle Pond, or Dyer Pond.
- F. The provisions of this section shall not apply to any service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder, and Massachusetts General Law.

§ 111-19 Enforcement.

- A. The Officers of the Wellfleet Police Department, Animal Control Officers, Harbormaster, Assistant Harbormasters, Shellfish Constable, Deputy Shellfish Constables shall have the authority to enforce the provisions of this article.
- B. Violations of this article shall be enforceable under the noncriminal disposition procedures established by MGL c. 40, § 21D. The noncriminal disposition penalties for any person violating this article shall be a warning or \$50 for the first violation; \$100 for the second violation; \$300 for the third violation; and each subsequent violation. Each day of violation shall constitute a separate offense.

(Requested by the Animal Control Officer)

Majority Vote Required

Recommendations:

Selectboard:

Recommend: Yes – 5, No – 0, Abstain – 2.

Bylaw Committee: The Committee voted to recommend 3-0

SUMMARY: The current regulations not already in the bylaws regarding animals from the Beach Rules and Regulations would be brought into the bylaws with the existing schedule of fines. The definition of “Beach” from the bylaws would be expanded within the singular bylaw for purposes of enforcing the beach restriction of animals in shellfishing areas and would allow for a warning for a first offense.

ARTICLE NO. 15 – PETITIONED DREDGING MITIGATION ARTICLE: TO PROHIBIT THE INCLUSION OF PRIVATELY OWNED LAND IN THE DREDGING MITIGATION WITHOUT AGREEMENTS WITH THE PROPERTY OWNERS:

To see if Town Meeting will prohibit the Town to enter into any Dredging Mitigation Agreement Agreement committing property not owned by the Town until agreements have been reached with all privately interested parties and duly approved by a vote of Town Meeting, or to do or act anything thereon.

(Citizens Petition)

Recommendations:

Selectboard: Recommendation deferred until Town Meeting

SUMMARY: The Dredging Mitigation Plan includes private parcels primarily owned by the Audubon Society. Currently, there are no agreements in place with these other parties. If the private parties want an easement to protect themselves from liability, accepting such an easement requires a vote of the Town Meeting. How can the Town enter into an agreement with the Army Corps for ecological enhancement as stipulated in the Dredging Mitigation Plan in the absence of agreements to use all of the land included in the Mitigation Plan, which requires a vote of Town Meeting? Making firm commitments without agreements in place, infringes on the rights of the property owners, and is unlawful without a Town Meeting vote. This is an example of the rushed nature of the Mitigation Plan.

ARTICLE NO. 16 – PETITIONED DREDGING MITIGATION ARTICLE: DISPOSITION OF TOWN-OWNED LAND

Disposition of Town Property Drummer Cove/Blackfish Creek Parcel 30-188 to see if the Town will vote to enter into a regulatory restriction with the Army Corps of Engineers for Drummer Cove/Blackfish Creek, Assessors Map 30 Parcel 188, or to do or act anything thereon.

(Citizens Petition)

Recommendations:

Selectboard: Recommendation deferred until Town Meeting

SUMMARY: The Town is proposing to permanently restrict how this town-owned property is used and managed as part of a Mitigation Agreement with the Army Corps of Engineers for the Dredging of the so-called "Area II" which is the mooring field in Chipman's Cove. The Selectboard is ready to enter into an agreement placing restrictions on this parcel of town-owned land without the approval of Town Meeting in direct violation of Section 7 of the General Bylaws of the Town of Wellfleet, which requires any change in the disposition or long-term licensing for an indefinite term or for more than five years to first to be approved by Town Meeting. Section 7 makes no differentiation between a deed restriction and a regulatory restriction, and the second paragraph reads:

Notwithstanding anything contained herein, any Town real property, the title, restrictions, or boundaries of which is or are under adjudication by any court may be disposed of in any manner recommended in writing by the Town Counsel and a majority of the Board of Selectmen and approved by a two-thirds vote of the Town Meeting.

Without the approval of the Town meeting, agreeing to any type of restriction on Town-owned property is illegal.

ARTICLE NO. 17 – PETITIONED DREDGING MITIGATION: FUNDING AMENDMENT

To see if the Town will vote to amend the prior appropriation of \$7,500,000 authorized by Article 12; Wellfleet Harbor Dredging at the 2019 Annual Town Meeting to read:

To see if the Town will vote to appropriate the sum of \$7,500,000, or any other sum, for the purpose of paying all costs related to preventive maintenance dredging and for payment of all other costs incidental and related thereto, except for cost incidental or related to any USACE mitigation plan required for the dredging of "Area II", and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen be and hereby is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore, provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of M.G.L. c. 59, §21C (Proposition 2½). Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount. Or to take any other action in relation thereto.

(Citizens Petition)

Recommendations:

Selectboard: Recommendation deferred until Town Meeting

SUMMARY: The Army Corps of Engineers is requiring the town to make payment in the amount of \$4.4 million dollars or enter into a mitigation plan in order to secure a permit for the dredging of so-called "Area 11," which is the mooring field in Chipman's Cove. In order to meet the mitigation

requirements, the Selectboard is ready to enter into an agreement to restrict the use and propagation of 28 acres of tidal flats in Blackfish Creek. The success of this mitigation will be measured in oysters per sq. meter and other metrics. The metrics of 25 oysters per sq meter over the entire 28 acres are exceptionally high and similar to aquaculture bottom cropping densities. The area included in the dredging mitigation agreement includes marshes and areas of deep mud unsuitable for oysters. The standard the State uses to define a significant oyster resource is 6 oysters per square meter. The mitigation plan commits the Town to a density four times greater than the State's metrics.

Experienced shellfishers have expressed that based on their expertise, there is a high risk of the Town failing to meet the metrics for various reasons and the USACE will fail the plan, exposing the Town to significant unknown future liabilities including monetary penalties. There is a concern about the loss of fishing grounds. The USACE may fail the mitigation plan, and when that happens, the Town will either need to pay the mitigation fee, which is currently \$4.4 million, but expected to rise in the future, or expand the area subject to the mitigation agreement and incur continued and expanded costs. The mitigation agreement is in perpetuity with unknown future expenses and unlimited liability. Even if the borrowing authorization is used, there is no funding for the life of the agreement.

SECTION III: STANDARD CLOSING ARTICLES

ARTICLE NO. 18 - REPORTS OF BOARDS AND COMMITTEES:

To hear reports of the Selectboard, Town Officers, and all other Committees and to act thereon, or do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend Yes - 5, No - 0, Abstain - 0.

ARTICLE NO. 19 - OTHER BUSINESS:

To act on any other business that may legally come before the meeting.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Recommend Yes - 5, No - 0, Abstain - 0.

SPECIAL TOWN ELECTION WARRANT

Wednesday September 27, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet at the **WELLFLEET ADULT COMMUNITY CENTER, 715 OLD KING'S HIGHWAY in Wellfleet on Wednesday September 27th, 2023 , between twelve o'clock noon and seven o'clock p.m.**, then and there to vote for the election of the following Town officer: One Selectboard to fill the remainder of a term. Also, to vote on the following questions:

Question 1: Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay costs associated with the design, permitting and construction of Phase I Wastewater Treatment System to serve 95 Lawrence Road and connect surrounding municipal buildings?

Majority Vote Required

Question 2: Shall the Town of Wellfleet be allowed to assess an additional \$145,000.00 in real and personal property taxes for the purpose of funding a new Town Planner position for the fiscal year beginning July 1st, two thousand and twenty-three?

Majority Vote Required

2023 SPECIAL TOWN ELECTION WARRANT

And you are hereby directed to serve these warrants by posting attested copies thereof, one in the Post Office in Wellfleet and one in the Post Office in South Wellfleet, fourteen (14) days at least before the date of said meetings.

Hereof fail not and make do return of these warrants with your doings thereon, to the Town Clerk, at the time and place of said meetings.

Given under our hands this 25th day of July 2023.



Barbara Carboni, Chair


Wellfleet Selectboard



John A. Wolf, Vice Chair, Clerk



Michael F. DeVasto, Member



Kathleen Bacon, Member



Ryan Derek Curley, Member

Constable's Return of Service

I have served the foregoing warrant by posting attested copies thereof in the Post Office in Wellfleet and the Post Office in South Wellfleet in the Town on "J--1/31 :2..} , which is at least seven (14) days before the date of said meeting, as withitufirect .

Date:

7/27/23

Constab