

## WELLFLEET ENVIRONMENTAL PROTECTION BYLAW

AG 7/29/1986, 8/5/2010

### [extracts relevant to shellfishing]

**Article 1. Purpose.** The purpose of this bylaw is to protect the natural resources, flood prone areas, wetlands, and adjoining upland areas existing in the Town of Wellfleet from net loss of their function, value, or acreage by controlling activities and mitigating effects deemed by the Wellfleet Conservation Commission (“Conservation Commission” or “Commission”) to have a significant or cumulative adverse effect upon protection of the following resource area values, including but not limited to, the following:

- coastal and stormwater flood control...
  - fisheries
  - land containing shellfish and shellfish habitat
  - erosion and sedimentation control...
  - wildlife species and habitat, rare/unique plant and animal species and habitat
  - aquaculture
  - adaptation to climate change
- Collectively, these are the resource area values and interests resource area values protected by this bylaw.

**Article 2. Definitions.** Except as otherwise provided in the bylaw or its regulations, the definitions of terms in the bylaw are the same as set forth in the WPA, MGL c 131, s. 40 and its Regulations, 310 CMR 10.00

*Alter.* To change the condition(s) of any area subject to protection by the bylaw including but limited to one or more of the following actions upon the resource areas protected by this bylaw:

- ii) changing of pre-existing ...sedimentation patterns, flow patterns...;
- vi) placing of any object or obstruction whether or not it interferes with the flow of water;
- vii) destruction of plant life, cutting, or removal of vegetation...;
- xii) any incremental activity that has or may have a cumulative adverse effect on the Resource Area Values protected by the bylaw; or
- xiii) changing the capacity of resource areas to respond to the impacts of climate change...

*Bordering.* Any land within either of the following or the greater thereof:

- i) one hundred (100) feet horizontally lateral from the edge of any marsh...or
- ii) within the maximum lateral extent of the water elevation of the statistical five hundred (500) year frequency storm as determined by best available measures.

*Coastal Storm Flowage.* Land subject to any inundation caused by coastal storms up to and including that caused by the 500-year storm, surge of record, or storm of record, whichever is greater.

*Cumulative Effect.* An effect that is significant when considered in combination with other activities that have occurred, are going on simultaneously, or that are likely to occur, whether such other activities have occurred or are contemplated as a separate phase of the same project, or unrelated but reasonably foreseeable

actions, including worsened effects of flooding or other climate change effects...

*Impacts of Climate Change.* Include...rising sea levels; ...changes in wetlands...; increased intensity and/or frequency of storm events or extreme weather events;...

*Land Subject to Flooding or Inundation.* The land within the estimated maximum lateral extent of flood water which will theoretically result from the statistical 500-year frequency storm. Said boundary must be determined by reference to the most recently available flood profile data prepared for the town of Wellfleet within which the work is proposed under the National Flood Insurance Program ("NFIP"). Where NFIP data are unavailable or deemed by the Commission to be outdated or inaccurate or not reflecting current or reasonably anticipated conditions, the boundary of said land must be based on the maximum lateral extent of flood water which has been observed or recorded, or other evidence presented and considered by the Commission. The Commission must give special consideration to the best available resources provided by the town of Wellfleet or other credible sources on expected conditions due to climate change...

*Resilience.* The ability to minimize the negative impacts of climate change; to build capability and ability of a resource area to minimize negative impacts of climate change.

*Significant.* Playing a discernable role. A resource area is significant to an interest identified in this bylaw or its regulations when it plays a role in the provisions or protection, as appropriate, of that interest, including by mitigating any adverse impacts of climate change in the provision or protection of that interest.

*Special Transitional Areas. a) Coastal:* Those portions of coastal floodplains which are immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes or coastal banks and are likely to be in a state of transition due to climate and coastal changes, resulting in inundation of these areas further landward and/or migration of these areas further inland. As sea level rises, the shoreline may retreat as areas are successively inundated more frequently by storm and tidal activity... A Special Transitional Area may include all or part of the resource Buffer Zone, Riverfront Area, and No- Disturbance Area and in any case includes lands subject to 500-year flood (0.2 percent annual chance flood).

*Storm Damage Prevention.* The prevention of damage caused by water from storms, as currently occurs and is predicted by best available data to occur from the impacts of climate change, including but not limited to erosion and sedimentation, damage to vegetation...caused by flooding, waterborne debris or waterborne ice.

**Article 3.** No person shall...alter any...coastal wetland, bank, beach, dune, flat, marsh, ...or any estuary, creek,... or any land within 100 feet of the foregoing areas or any land under the ocean, land subject to tidal action or coastal storm flowage, land subject to flooding (bordering or isolated); or land in an Area of Critical Environmental Concern ...without filing written notice of his intention to so...alter with the Conservation Commission of the Town of Wellfleet.... Upon the written request of any person, the Commission may make a Determination of Applicability of this bylaw to any work. Procedures in connection with such a Request for Determination shall be as provided in MGL C.131, S.40 and Regulations thereunder as applicable and in effect on the date of the filing of such Request. ...

...

**Article 5.** The Conservation Commission is empowered to deny permission for any...altering within the areas subject to protection under this bylaw, regardless of any mitigation proposed, including creation of new wetlands, if in its judgment, such denial is necessary to preserve environmental quality of resources and area defined in Article 3 of this bylaw. The Conservation Commission is further empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Conservation Commission; for failure to meet the design specifications, performance standards and other requirements in regulations of the Conservation Commission; for failure to avoid or prevent significant or cumulative effects upon the Resource Area Values protected by this bylaw; or where no conditions are adequate to protect those values, in its sole discretion as the issuing authority. The Commission may, as alternative to a denial, impose such conditions as it deems necessary to contribute to the protection and preservation of resources described in Article 3 and the values as listed in Article 1, in accordance with the purpose of this bylaw.

...

**Article 8. Enforcement.** Any person, who violates any provision of the bylaw, or of any condition issued pursuant to it, shall be punished by a fine of not more than \$200. Each day or portion thereof during which a violation continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

This bylaw may be enforced pursuant to Massachusetts General Laws, Chapter 40, Section 21 (d) by the Conservation Commission through its agent. Upon request of the Conservation Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this bylaw and orders issued pursuant to it.

...

**Article 11. Climate Change Resilience.** The Conservation Commission must explicitly consider climate change resilience and impacts in the issuance or denial of any permit through measurement of potential adverse impacts to resource areas for the protection of resource areas both as they currently exist and as are reasonably expected to exist based on the best available data on the projected impacts of climate change.

In reviewing activities within the Buffer Zone and Special Transitional Area, the Commission must presume both zones are important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of...daily operation or existence of the activities. These adverse impacts from...use can include, without limitation, erosion,...loss of wildlife habitat, and limitation of the ability of the natural system,

wetland, and/or salt marsh to migrate naturally in response to climate change. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas,...and other work limits for protection of such lands, including, without limitation, strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission by a preponderance of the evidence that the area or part of it may be disturbed without harm to the values protected by the bylaw.

When Land Subject to Flooding or Inundation is significant to the interests of flood control and storm damage prevention, the following performance standards must apply:

- ...(b) Relative sea level rise and the landward migration of resource area in response to relative sea level rise must be incorporated into the design and construction of...activities proposed in Land Subject to Flooding or Inundation.
- (c) Activities and their ancillary uses in FEMA Velocity zones which result in alterations to vegetative cover, interruptions in the supply of sediment to other wetland resources, and/or changes to the form or volume of a dune or beach that will have an adverse effect on said landform's ability to provide storm damage prevention and flood control are, therefore, prohibited. These activities include, but are not limited to,...new or proposed expansions of roads, driveways or parking lots...
- (d) The following projects may be permitted and conditioned by the Commission, providing they adhere to the provisions of this bylaw: pedestrian walkways...

**Article 12. Climate Change Adaptation and Planning.** The Applicant must, to the extent applicable as determined solely by the Commission, integrate climate change and adaptation planning considerations into their project to promote climate resilience to protect and promote Resource Area Values and functions into the future. These considerations include but are not limited to: sea level rise...and changes in coastal and stormwater flooding.

The Conservation Commission must consider a project's adaptation to potential climate change impacts by considering and prioritizing the following:

- ...iii) Implementation of project vegetation, planting, and landscaping plans and other measures to improve the resiliency of the wildlife habitat and resource area to withstand climate change impacts and promote landscape and habitat connectivity;
- iv) Restoration or enhancement of marsh or other wetland systems by adaptive management of elevations or water distribution;...

Those portions of coastal floodplains which are immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes or coastal banks require special protection. These areas are likely to be in a state of transition as the entire complex of coastal wetland resources gradually moves landward due to rising sea levels along the coast of Massachusetts, resulting in inundation of more landward area. As sea levels rise, the shoreline may retreat and areas are successively inundated more frequently by storm and tidal activity. Activities carried out within these Special

Transitional Areas of coastal floodplains may interfere with the natural landward migration of the adjacent coastal resource areas. Therefore, maintaining these special transitional areas in as much of their natural state as possible is necessary to protect the interests of other wetland resources. The Commission may at its discretion require that projects within the Special Transitional Areas seek a Notice of Determination of Applicability from the Commission for the project site and potential impacts to be reviewed.

The requirements of this section must be met commensurate with the nature, scope, and type of the proposed project or activity.

WELLFLEET ENVIRONMENTAL PROTECTION REGULATIONS  
January 1, 2000 Amended November 19, 2003, December 15, 2010, February 20,  
2013, February 19, 2014, November 18, 2015, May 3, 2017, February 17, 2021,  
October 6, 2021

**[extracts relevant to shellfishing]**

(2) Purpose. These Regulations set forth a public review and decision-making process by which activities affecting Areas Subject to Protection Under the Bylaw are to be regulated in order to contribute to the following public interests and values:

- ...-flood control
- erosion and sedimentation control
- storm damage prevention
- ...-protection of land containing shellfish
- protection of fisheries
- protection of wildlife habitat

**1.02: Statement of Jurisdiction:**

- (1) Areas Subject to Protection Under the Bylaw. The following Wetland Resource Areas are subject to protection under the Bylaw and Regulations:
- (a) any ...coastal wetland, coastal bank, beach, dune, flat, marsh...
  - (b) any estuary, creek, river, stream...and lands under these bodies of water; land under the ocean
  - (c) land subject to tidal action, land subject to coastal storm flowage, bordering land subject to flooding...
  - (d) all land within 100 feet of any area specified in WEPR 1.02(1)(a) – (b) (hereinafter referred to as the “Buffer Zone”)
  - (e) land in Wellfleet Harbor Area of Critical Environmental Concern (ACEC)...
- (2) Activities Subject to Regulation Under the Bylaw.
- (a) Any activity which is proposed or undertaken within an area specified in WEPR 1.02(1) which, in the judgment of the Commission, will constitute ... altering any such area, is subject to jurisdiction under the Bylaw and Regulations and shall require the filing of a Notice of Intent or a Request for Determination of Applicability and permission, in the form of an Order of Conditions or a Determination of Applicability, from the Commission to proceed...

**General Provisions:**

(1) Burden of Proof:

- (a) The applicant shall have the burden of proving by a preponderance of credible evidence that:
  - 1. The activity proposed is not significant to the protection of the public interests or environmental values as identified under WEPR 1.01(2), or
  - 2. The activity proposed will contribute to the protection of the public interests and environmental values as identified under WEPR 1.01(2) by complying with the performance standards established for that particular

resource area. If performance standards for a particular resource area are not set forth in these Regulations, the Commission shall apply the performance standards for work in that particular resource area as are established at 310 CMR 10.00.

3. The activity proposed will not have an adverse impact of either an immediate or cumulative nature upon the public interests and environmental values as identified under WEPR 1.01(2)...

(5) Variances:

(a) The Commission may, in its discretion, grant variances from one or more of the Regulations pursuant to the provisions of this section. Variances shall be granted on a case-by-case basis and shall not set a precedent for future Variance requests.

b) The Commission may, in its discretion, grant a Variance for the following reasons and under the following conditions:

1. upon clear and convincing proof, provided by the applicant, that the proposed work, or its impacts and effects, will not adversely affect the public interests and environmental values protected by the Bylaw. In exercising its discretion, the Commission shall require an analysis of reasonable alternatives for the proposed activity which might be undertaken with less adverse impacts on an Area Subject to Protection Under the Bylaw as defined at WEPR 1.02(1) and without deviating from the provisions of these Regulations. The applicant shall provide the Commission with a written alternatives analysis and any other information which the Commission requires to make a decision. Failure of the applicant to provide information within a time period specified by the Commission may result in the denial for a Variance request...

**1.04: Definitions:**

*Activity* means any form of...the construction or improvement of roads and other ways;... the destruction of plant life; and any other changing of the physical characteristics of land.

*Alter* means to change the condition of any Area Subject to Protection Under the Bylaw as defined at WEPR 1.02. Examples include, but are not limited to, the following:

...(c) the destruction of vegetation

*Buffer Zone* means that area of land extending 100 feet horizontally outward from the boundary of any Area Subject to Jurisdiction under the Bylaw as defined at WEPR 1.02(a) – (b). Refer to WEPR 2.01(4) for the General Performance Standards for work within the Buffer Zone.

*Coastal Wetland* shall mean any coastal bank, marsh,...land under the ocean, land subject to tidal action, land containing shellfish and land subject to coastal storm flowage.

*Small Vessel* shall mean any canoe, kayak, dory, skiff, dinghy, sail or paddle board, or similar watercraft for use in the waterways.

**2.01: Buffer Zone (including the 50-foot Filter Strip):**

1) Preamble: The 100-foot Buffer Zone is likely to be significant to...erosion and sedimentation control, storm damage prevention, prevention of pollution, the protection of land containing shellfish, the protection of fisheries and the protection of wildlife habitat.

The Buffer Zone is a transitional area that extends 100-feet horizontally into the uplands from the landward boundary of any...coastal wetland, coastal bank, beach, dune, flat, marsh,...the lands under these bodies of water and the land under the ocean.

The composition of the vegetation, topography, and soils within undisturbed buffer zones is widely variable, the diversity of which contributes to all of the public interests and environmental values protected under the Wellfleet Environmental Protection Bylaw.

Vegetated buffer zones reduce impacts to wetland resource areas by moderating the effects of storm water flow. Undisturbed vegetation stabilizes the soil which prevents erosion; filters suspended solids, nutrients, and harmful or toxic substances; and moderates water level fluctuations. Vegetated buffer zones... reduce the velocity and erosive force of storm water flow through the Buffer Zone.... Nutrients and contaminants associated with storm water runoff are taken up and utilized by plants and microorganisms or are adsorbed into the soils. The removal of sediment and nutrients by the plants and soils within the buffer zone protects wetlands and waterways from potential algal blooms and other impacts to surface water quality. Trees and shrubs within the buffer zone provide soil stability ... which helps to control ... aquatic vegetation, dissolved oxygen concentration and nuisance algae growth within surface waters....Contiguously vegetated buffer strips also provide valuable wildlife corridors. The Town of Wellfleet is host to a variety of rare plants and wildlife that depends on habitat requirements provided by the Buffer Zone.

The Buffer Zone is essential to the protection of wetland resource areas. The ability of the Buffer Zone to provide the benefits and environmental values that are protected under the Wellfleet Environmental Protection Bylaw is directly proportional to the width of the Buffer Zone provided. Therefore any activity proposed within the Buffer Zone shall avoid, minimize and/or mitigate any adverse impacts in order to provide the greatest level of protection to the public interests and environmental values protected under the Wellfleet Environmental Protection Bylaw.

2) Definition, Critical Characteristics and Boundary

(a) The Buffer Zone shall refer to that area of land extending 100-feet horizontally outward from the boundary of any Area Subject to Protection under the Bylaw as defined at WEPR 1.02(a)-(b). The Buffer Zone shall be further sub-divided to include:

1. The “50-foot Filter Strip” shall refer to that area of land extending 50 feet horizontally outward from the boundary of any Area Subject to Jurisdiction under the Bylaw as defined at WEPR 1.02(a) – (b)...

(3) Presumption of Significance:

(a) Where a proposed activity involves work within the 100-foot Buffer Zone to an Area Subject to Protection Under the Bylaw as defined at WEPR 1.02(1)(a)–(b), the Commission shall presume that such area is significant to the interests



and environmental values specified in the Bylaw. This presumption may be overcome only upon clear and convincing proof, provided by the applicant that the buffer zone does not play a role in the protection of said interests and environmental values protected by the Bylaw...

- (c) Notwithstanding the provisions of WEPR 2.01(4)(a), the Commission may issue an Order of Conditions permitting work in the Buffer Zone provided that the applicant has examined all practicable alternatives to the project which would further minimize impacts to the Buffer Zone and has demonstrated that all impacts will be properly mitigated. The alternatives analysis shall be submitted to the Conservation Commission in writing.
  - 1. Activities within the 100-foot Buffer Zone shall avoid, minimize and mitigate adverse impacts. The purpose of evaluating project alternatives is to locate activities so that impacts to the Buffer Zone and Areas Subject to Protection under the Bylaw, as defined at WEPR 1.02(1)(a) – (b), are avoided to the extent practicable. As much of a project as feasible shall be sited outside the Buffer Zone. If locating a project entirely outside the Buffer Zone is not practicable, the alternatives shall be evaluated in order to locate the project as far as possible from the Area Subject to Protection Under the Bylaw as defined at WEPR 1.02(1)(a) – (b) and to minimize impacts to the buffer zone.
  - 2. An alternative shall be considered practicable if it is available and capable of being done. Practicable alternatives may include realignment, reconfiguration or re-sizing of project components to minimize impacts to the Buffer Zone...
- (d) Where no practicable alternatives are available or capable of being done which would otherwise avoid or minimize adverse impacts to the buffer zone, the following standards shall apply:
  - 1. No Significant Adverse Impact:
    - ...ii) On previously developed or disturbed sites, all work proposed within the Buffer Zone shall result in an improvement of the existing conditions and the capacity of the resource area(s) and buffer zone to protect the public interests and environmental values protected under the Bylaw. The Conservation Commission may require, as mitigation for new alteration within the Buffer Zone: re-vegetation and restoration of areas previously altered or disturbed within the Buffer Zone...

#### **2.04: Land Subject to Coastal Storm Flowage and Wellfleet Harbor ACEC**

**(Effective 3/15/11)**

(1) Preamble: Land subject to coastal storm flowage (LSCSF) may include coastal beaches, salt marshes, banks, barrier beaches, salt ponds, dunes, land containing shellfish, land under the ocean, and banks of and land underlying fish runs as defined in the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00). LSCSF is important for the protection of... flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, wildlife and wildlife habitat, fisheries, and shellfish.

The wetland values of specific resource areas, including those identified above, that lie within the area of LSCSF and are otherwise addressed in this Bylaw and the regulations promulgated there under are incorporated in this section by reference. A healthy and undisturbed LSCSF supports the resource area values discussed below. These values should not be adversely affected and should be enhanced when and where necessary.

Areas of Critical Environmental Concern (ACECs) are places in Massachusetts that receive special recognition because of the quality, uniqueness and significance of their natural and cultural resources. These areas are identified and nominated at the community level and are reviewed and designated by the state's Secretary of Energy and Environmental Affairs. ACEC designation creates a framework for local and regional stewardship of critical resources and ecosystems.

(a) Storm Damage Prevention

LSCSF includes land that lies at the margin between upland and land subject to average (normal) coastal and wind-driven processes. When coastal conditions are not the norm - during extreme high tides and hurricanes, for example - the need for the land to absorb flood waters and buffer inland areas from flood and wave damage is significant.

Velocity zones (V-zones) and over wash zones (AO-zones) of LSCSF are areas which are subject to hazardous flooding, wave impact and in some cases significant rates of erosion as a result of wave impact and scour. Alteration of land surfaces in A, V, and AO zones can change drainage characteristics resulting in increased flood damage on adjacent properties.

The topography, soil structure (e.g., composition, size, density & shape), vegetation, vulnerability to erosion and permeability of the land surface within V- and AO-zones are critical characteristics which determine how effective an area is in dissipating wave energy and in protecting areas within and landward of these zones from storm damage and flooding. A gentle and permeable seaward-sloping land surface is more effective at reducing the height and velocity of incoming storm waves. Wave energy is expended in eroding and transporting materials comprising the land surface within the V- and AO-zones, as well as by percolation or the downward movement of storm water through more permeable land surfaces, thereby lessening the effects of backrush, scour and erosion...

Much of the LSCSF within Wellfleet is designated as part of the Wellfleet Harbor Area of Critical Environmental Concern (ACEC). The ACEC resources were designated because of their extraordinary and unique character. Generally, the purpose of the ACEC is to preserve, restore, and enhance critical environmental resources. The goal of the program is to increase the level of protection for the ACEC, and to facilitate and support the stewardship of the ACEC...

(c) Wildlife Habitat

LSCSF areas are low-lying areas that are ecologically transitional between marine/estuarine ecosystems and upland areas. Resource areas within the 100-year floodplain are critical habitats for a large variety of wildlife species. For example, salt marshes provide habitat for many crustaceans and mollusks and serve as critical nursery areas for numerous fin fish species which in turn provide food for species higher up in the food chain, e.g., herons, osprey, mink and raccoon. These resource areas also provide important over-wintering and stopover areas for many species of waterfowl.

Coastal floodplains (LSCSF) adjacent to other wetland resource areas provide important wildlife functions, such as nesting and roosting habitat, and serve as wildlife corridors connecting coastal zone resources with freshwater wetland resources. Adjacent areas within the coastal floodplain also serve as transitional zones needed to protect the coastal wetland resources' ability to provide essential habitats (Guidance Specifying Management Measures for Sources of Non-point Pollution in Coastal Waters, EPA, 1993; Castelle, et al., 1992, pgs 5 & 6).

(d) Sea Level Rise

Areas of coastal floodplains (LSCSF) which are immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes or coastal banks require special protection. These areas are likely to be in a state of transition as the entire complex of coastal wetland resources gradually moves landward as sea levels rise. For thousands of years, relative sea level has been rising in Massachusetts, and it is still rising (1978 Giese, G.S., C.A. Mayo, L.B. Smith and G. Clayton, Scientific basis for proposed additions and amendments to the Wetlands Protection Act. Provincetown Center for Coastal Studies and Massachusetts Coastal Zone Management Report, June 1978, 67 pp.), resulting in gradual inundation of landward area. Historic sea level measurements indicate that relative sea level in Massachusetts is rising at approximately 1 foot per 100 years (Giese, et al, 1978). As sea level rises, the shoreline may retreat, and areas of the coastal floodplain will successively be inundated more frequently by storm and tidal activity. Activities carried out within these special transitional areas of coastal floodplains may interfere with the natural landward migration of the adjacent coastal resource areas. Maintaining these special transitional areas in their natural state is critical to the protection of the interests of other wetland resources found within LSCSF.

(2) Definitions:

(a) Land Subject to Coastal Storm Flowage - Land subject to tidal water, flooding, or any inundation caused by coastal storms up to and including that caused by the 100-year storm, the surge of record or the storm of record, whichever is greatest. Land Subject to Coastal Storm Flowage is delineated as the 100-year flood plain (Zones, A, AO, AH, A1-A30, A99, V, and V1-V30) on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Wellfleet or as otherwise documented.

(b) A Zone (including A-, AE, A1-30, and A99) – A zones are those portions of the land subject to coastal storm flowage which are subject to inundation by types of 100-year flooding where still water predominates

(c) AO Zone, Over wash – Those portions of land subject to coastal storm flowage which are subject to inundation by moving water where average depths are between one and three feet. AO Zones are commonly associated with over wash and generally border on the landward side of a Velocity Zone.

(d) AH Zones- Those portions of land subject to coastal storm flowage which correspond to the areas of 100-year shallow flooding with a constant water-surface elevation (usually areas of ponding) where average depths are between 1 and 3 feet.

(e) V – Zone- Those portions of land subject to coastal storm flowages which are subject to inundation by velocity hazard (wave action)

(f) ACEC (Area of Critical Environmental Concern) - Natural and cultural resources with state designation for their high quality, uniqueness, and significance. ACECs within Wellfleet include the Wellfleet Harbor ACEC designated in 1989 totaling 12,480 acres within the towns of Eastham, Truro, and Wellfleet...

### (3) Presumption of Significance

Where a proposed activity involves work within LSCSF or within the Wellfleet Harbor ACEC the Conservation Commission shall presume that such area is significant to the interests and environmental values of the Wellfleet Environmental Protection Bylaws. This presumption may be overcome only upon clear and convincing proof, provided by the applicant that the area in discussion does not play a role in the protection of said interests and environmental values protected by the bylaw and if the Conservation Commission makes a written determination to that effect.

### (4) Performance Standards

(a) Any activity proposed on LSCSF or within the Wellfleet Harbor Area of Critical Environmental Concern shall not:

1. Reduce the ability of the resource to absorb and contain flood waters;
2. Reduce the ability of the resource to buffer more inland areas from flooding and wave damage;
3. Displace or divert flood waters to other areas;...
6. Reduce the ability of the resource to serve as a wildlife habitat and migration corridor through activities such as, but not limited to the removal of substantial vegetative cover...

## **2.05: Small Vessel Identification and Permitting Program**

(1) To protect fragile coastlines, beach, pond and riparian habitats, and associated vegetation, small vessels (canoes, kayaks, dories, skiffs, dinghies, sail or paddle boards, and similar watercraft) shall be stored in the following manner...:

Small vessels may be stored unattended in Wellfleet provided that they meet the following regulations.

(1) Each vessel must obtain and display a current Identification Sticker obtained from the Town of Wellfleet.

Applications will be available on the Town website, through the beach sticker office, and the Harbormaster's office.

(a) Any person who leases a mooring through the Harbormaster, may upon request, be issued one Identification Sticker at no charge for a "tender" associated with the larger vessel. Such tenders are to be stored as directed by the Harbormaster

(b) Each licensed commercial fisherman or aquaculturalist who stores a small vessel associated with his/her work at a town landing will be allocated one Sticker at no charge, and a second Sticker at no charge if work is done in two different locations within Wellfleet Harbor. Stickers for fishermen and aquaculturalists shall be year-round permits and available upon request from the Harbormaster. ...

(4) Any vessel owner receiving or purchasing a Sticker agrees to release the Town of Wellfleet and its employees or agents ("the Town") and the underlying property owner, from any and all claims, rights of action or other forms of liability, whether for personal injury, property damage or otherwise, that may arise in connection with use of the approved sites for storage of a vessel, and agree, as a condition of receipt of a permit for such storage, to INDEMNIFY and HOLD HARMLESS the Town and the underlying property owner against any and all legal claims and proceedings of any type that may arise from or relate in any way to use of the designated storage location.

(5) The Harbormaster, the Shellfish Constable, the Conservation Agent, and the Beach Administrator (and their deputies or assistants) shall have the authority to enforce this regulation.

(6) Any vessel found on a town landing without a current Town-issued Identification Sticker may be tagged for removal. If the vessel has not been removed by the owner within 48 hours, it may be removed and stored by the Town and subject to a non-criminal violation with a fine of up to \$100. The per diem storage fee for vessels unclaimed within the 48 hours is \$15.00/day up to a maximum storage fee of \$150.00. The vessel will be released to its owner upon payment of any fine imposed.

Persons with unpaid fines will not be able to purchase ...vessel identification stickers until or unless the fine is paid in full.

(7) Any vessel unclaimed by the owner within one month of its removal maybe disposed of as the Town determines.