

**AGENDA
BOARD OF SELECTMEN
MONDAY, MAY 23, 2022
WAQUOIT MEETING ROOM
MASHPEE TOWN HALL
16 GREAT NECK ROAD NORTH
MASHPEE, MA 02649**

Broadcast Live on Local Cable Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

6:30 p.m. – Convene Meeting in Open Session

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

MINUTES

APPOINTMENTS & HEARINGS

- 6:30 pm Pole Hearing: Pole Petition # MA2022-08 Mashpee Neck Road
Discussion and Approval of Pole Petition #MA2022-08 to Place a New Pole on Mashpee Neck Road
- 6:35 pm Public Hearing: Canonchet Avenue
- 6:40 pm Public Hearing: (Continued from March 21, 2022) : 2022 Shellfish Regulations
Discussion and Approval of Adopting the 2022 Shellfish Regulations
- Discussion and Approval of Order of Taking of Oldham Circle: *DPW Director Catherine Laurent*
- Update with Regard to Implementing a Residential Tax Exemption:
Finance Director Dawn Thayer, Treasurer/Tax Collector Craig Mayen, Assessing Director Joseph Gibbons
- Joint Base Cape Cod Briefing: *JBCC Commanders*

COMMUNICATIONS & CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

- Discussion and Approval of Mashpee Community Media Center (Mashpee TV) Contract
- Discussion and Approval of Amending Board of Selectmen Policy #081
"Public Participation at Public Meetings"

ADDITIONAL TOPICS

(This space is reserved for topics that the Chairman did not reasonably anticipate would be discussed)

LIAISON REPORTS

TOWN MANAGER UPDATES

PUBLIC COMMENT

EXECUTIVE SESSION

ADJOURNMENT

MASHPEE TOWN CLERK

MAY 19 2022

RECEIVED BY: 

**TOWN OF MASHPEE
BOARD OF SELECTMEN
POLE HEARING**

The Town of Mashpee Board of Selectmen will conduct a pole hearing on petition #MA2022-07 from Verizon New England Inc. and Eversource Energy dba Nstar Electric Company, proposing to place one (1) new pole 53/52 on Mashpee Neck Road. This petition is necessary to improve the existing pole line on Mashpee Neck Road.

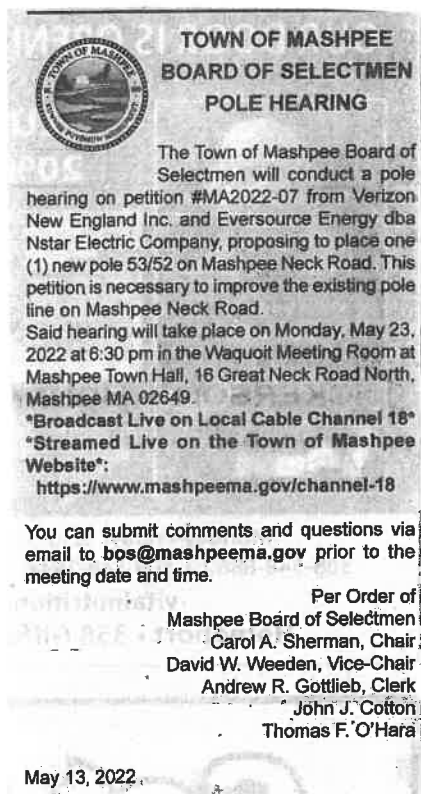
Said hearing will take place on Monday, May 23, 2022 at 6:30 pm in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee MA 02649.

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You can submit comments and questions via email to bos@mashpeema.gov prior to the meeting date and time.



Per Order of
Mashpee Board of Selectmen

Carol A. Sherman, *Chair*
David W. Weeden, *Vice-Chair*
Andrew R. Gottlieb, *Clerk*
John J. Cotton
Thomas F. O'Hara




TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

MEMORANDUM

Date: May 19, 2022
To: Rodney C. Collins, Town Manager and
Honorable Members of the Board of Selectmen
From: Stephanie A. Coleman, Administrative Secretary 
Re: Pole Hearing - Petition #MA2022-07 Mashpee Neck Road

Description

Discussion and adoption of the Order for Joint or Identical Pole Locations on Mashpee Neck Road.

Background

The Town of Mashpee Board of Selectmen will conduct a pole hearing on Petition #MA2022-07 dated March 24, 2022, from Verizon New England Inc. and Eversource Energy dba Nstar Electric Company, proposing to place one (1) new pole 53/52 on Mashpee Neck Road.

This petition does require a hearing and a notice was sent by certified mail to the abutters on May 11, 2022.

Recommendation:

This petition is necessary to improve the existing pole line on Mashpee Neck Road, therefore it is recommended that the Board of Selectmen adopt the order.

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

April 1, 2022

To the Board of Selectmen

in **MASHPEE**, Massachusetts

VERIZON NEW ENGLAND INC. and EVERSOURCE ENERGY DBA NSTAR ELECTRIC COMPANY request permission to locate poles, wires, cables and fixtures including the necessary anchors, guys and other such sustaining and protecting fixtures to be owned and used in common by your petitioners, along and across the following public way or ways:

One (1) New Pole

This petition proposes to place new - Pole 53/52 on Mashpee Neck Rd.

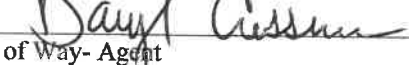
This petition is necessary in order to improve the existing pole line on Mashpee Neck Rd.

Wherefore they pray that after due notice and hearing as provided by law, they be granted joint or identical locations for and permission to erect and maintain poles, wires and cables, together with anchors, guys and other such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked-VZ N.E. Inc. No. **MA2022-07** Dated **03/24/2022**.

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree that space shall be reserved and maintained for the limited purpose of attaching one-way low voltage fire and police signaling wires owned by the municipality or governmental entity for public safety purposes only.

VERIZON NEW ENGLAND INC.

By 
Rights of Way- Agent

Dated this 1 day of APR, 2022.

EVERSOURCE ENERGY dba NSTAR ELECTRIC COMPANY

By 
Rights of Way Representative

Dated this 7th day of April, 2022.

PLEASE RETURN TO: Eversource Energy
Attn: Right Of Way
50 Duchaine Blvd, Rm#B2324, 2nd FL
New Bedford, MA 02745

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

By the Board of Selectmen of the Town of **MASHPEE**, Massachusetts.

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED:

that VERIZON NEW ENGLAND INC. and EVERSOURCE ENERGY dba NSTAR
ELECTRIC COMPANY DBA EVERSOURCE ENERGY be and they are hereby granted joint
or identical locations for and permission to erect and maintain poles and their respective wires and cables to
be placed thereon, together with anchors guys and other such sustaining and protecting fixtures as said
Companies may deem necessary, in public way or ways hereinafter referred to, as requested in petition of
said Companies dated the **1st** day of **APRIL, 2022**.

All construction under this order shall be in accordance with the following conditions:

Poles shall be of sound timber, and reasonably straight and shall be set substantially at the points
indicated upon the plan marked-VZ N. E. Inc. No. **MA2022-07** Dated **3/24/2022** - filed with said
petition.

The following are the public ways or parts of ways along which the poles above referred to may be
erected, and the number of poles, which may be erected thereon under this order:

One (1) New Pole

This petition proposes to place new - Pole 53/52 on Mashpee Neck Rd.

**This petition is necessary in order to improve the existing pole line on
Mashpee Neck Rd.**

Also that permission be and hereby is granted to each of said Companies to lay and maintain
underground laterals, cables and wires in the above or intersecting public ways for the purpose of making
connections with such poles and buildings as each may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the
Town of **MASHPEE**, Massachusetts held on the _____ day of _____ 2022.

Clerk of Selectmen

We hereby certify that on _____ 2022, at _____ o'clock _____ m., at the _____ a public hearing was held on the petition of the VERIZON NEW ENGLAND INC. and EVERSOURCE ENERGY dba NSTAR ELECTRIC COMPANY for permission to erect the poles, wires, cables, fixtures and connections described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Companies are permitted to erect poles, wires, cables, fixtures and connections under said order. And that thereupon said order was duly adopted.

Selectmen of the Town of **MASHPEE**, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a joint location order and certificate of hearing with notice adopted by the Board of Selectmen of the Town of **MASHPEE**, Massachusetts, on the _____ day of _____ 2022, and recorded with the records of location orders of said Town, Book _____, Page _____, this certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

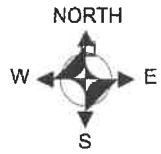
Town Clerk



PETITION PLAN

MUNICIPALITY MASHPEE VZ. N.E. INC. NO. MA2022-07
VERIZON NEW ENGLAND, INC AND
NSTAR ELECTRIC COMPANY D/B/A EVERSORE ENERGY DATE : March 24, 2022

SHOWING PROPOSED PLACEMENT OF ONE NEW POLE ON MASHPEE NECK RD



PARCEL 90-96
352 MASHPEE NECK RD

P#53/52 PARCEL 90-97
352 MASHPEE NECK RD

PARCEL 90-53
352 MASHPEE NECK RD

CAPTAINS ROW

MASHPEE NECK ROAD

221'

NOT TO SCALE

LEGEND

--- PROPERTY LINE
— EDGE OF PAVEMENT
- - - EDGE OF ROADWAY



EXISTING JOINTLY OWNED POLE
TO REMAIN



PROPOSED NEW JOINTLY OWNED POLE TO
BE INSTALLED

**TOWN OF MASHPEE
BOARD OF SELECTMEN
PUBLIC HEARING NOTICE**

Pursuant to the Code of the Town of Mashpee §150-6.D., the Mashpee Board of Selectmen will hold a public hearing on Monday, May 23, 2022 at 6:35 p.m., in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee MA 02649. The purpose of said hearing is to discuss the private to public road conversion of Canonchet Avenue as shown on the plans entitled "Canonchet Avenue Road" in Mashpee MA, dated January 27, 2022, and prepared by Cape & Islands Engineering.

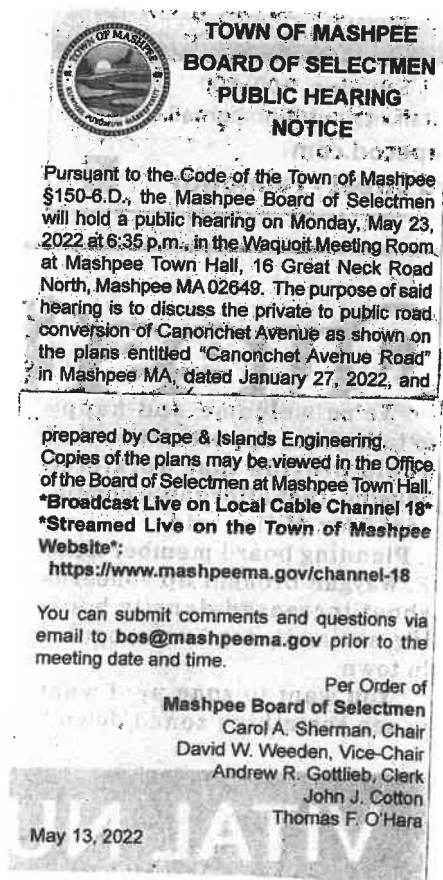
Copies of the plans may be viewed in the Office of the Board of Selectmen at Mashpee Town Hall.

Broadcast Live on Local Cable Channel 18

***Streamed Live on the Town of Mashpee Website*:**

<https://www.mashpeema.gov/channel-18>

You can submit comments and questions via email to **bos@mashpeema.gov** prior to the meeting date and time.



Per Order of
Mashpee Board of Selectmen

Carol A. Sherman, *Chair*
David W. Weeden, *Vice-Chair*
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TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

MEMORANDUM

Date: May 18, 2022
To: Rodney C. Collins, Town Manager and
Honorable Members of the Board of Selectmen
From: Stephanie A. Coleman, Administrative Secretary 
Re: Private to Public Road Conversion – Public Hearing for Canonchet Avenue

Description

Discussion of the estimate and layout of the public to private road conversion project for Canonchet Avenue.

Background

Pursuant to the Code of the Town of Mashpee §150-6.D., the Mashpee Board of Selectmen will hold a public hearing on Monday, May 23, 2022 at 6:35 p.m., in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee MA 02649. The purpose of said hearing is to discuss the private to public road conversion of Canonchet Avenue as shown on the plans entitled "Canonchet Avenue Road" in Mashpee MA, dated January 27, 2022, and prepared by Cape & Islands Engineering.

Estimated Betterment Cost:

Construction \$ 211,960.00
Processing \$ 5,150.00
Interest 5% \$ 10,855.50

Total \$ 227,965.50 = \$ 28,495.68 – Per eight (8) property owners.

Recommendation:

If the petitioners agree to move forward with the private to public road conversion of Canonchet Avenue, petition #2 should be submitted to the Town Manager/Board of Selectmen's office no later than Monday, July 11, 2022 for inclusion in the October 17th Town Meeting.



TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

May 5, 2022

Dear Property Owner:

Pursuant to the Code of the Town of Mashpee §150-6.D., the Mashpee Board of Selectmen will hold a public hearing on Monday, May 23, 2022 at 6:35 p.m., in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee MA 02649. The purpose of said hearing is to discuss the private to public road conversion of Canonchet Avenue as shown on the plans entitled "Canonchet Avenue Road" in Mashpee MA, dated January 27, 2022, and prepared by Cape & Islands Engineering. The Selectmen and DPW Director will be available to address any questions relating to the road taking process and the enclosed estimate. Copies of the plans may be viewed in the Office of the Town Manager Board of Selectmen at Mashpee Town Hall.

If residents plan to move forward with the road conversion and wish to have an article placed on the October 2022 Town Meeting Warrant, it will be necessary to submit a second petition, signed by at least **fifty percent plus one (50% + 1)** of the affected property owners, to the Office of the Town Manager/Board of Selectmen by Monday, July 11, 2022.

Should you have any questions, please contact the undersigned at 508-539-1401 or by email at scoleman@mashpeema.gov.

Sincerely,

Stephanie A. Coleman
Administrative Secretary

Encls

CANONCHET AVENUE	
ESTIMATED BETTERMENT COST	
CONSTRUCTION	\$ 211,960.00
PROCESSING (\$5,000 ENGINEERING, \$150 RECORDING FEES)	\$ 5,150.00
SUBTOTAL	\$ 217,110.00
INTEREST (5%)	\$ 10,855.50
TOTAL	\$ 227,965.50
COST TO BE BORNE BY EACH OF 8 PROPERTY OWNERS	\$ 28,495.68
Please be advised that this amount reflects the maximum allowable charge by the Town of Mashpee for this Betterment	





TOWN OF MASHPEE
DEPARTMENT OF NATURAL RESOURCES
Mashpee Town Hall
16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone – (508) 539-1409

MEMORANDUM

May 19, 2022

TO: Rodney C. Collins, Town Manager
Honorable Members of the Mashpee Selectboard

FROM: Donovan McElligatt, Town of Mashpee Shellfish Warden

RE: Recommendation for Changes to Mashpee Shellfish Regulations

Description

A full review and update to the Mashpee Shellfish Regulations has been completed by the Shellfish Division and Shellfish Commission. The Shellfish Commission voted unanimously to approve these new regulations and forward to the Selectboard for final approval at their May 19th, 2022 special meeting. New language has been added on Page 6 that addresses inherent Tribal rights to fish for sustenance. The new town seal has also been added to replace the outdated seal on the front of the document.

Background

A full update of the Mashpee Shellfish Regulations has been in the works for over a year. This update was needed to bring the regulations up to date with current M.G.L. regulations, as well as bring the regulations up to par with other cape towns. Fine schedules were also adjusted to be weighted more heavily for repeat offenders or offenses that have a particularly significant impact to the fishery or public health. These regulations also address current gaps in enforcement abilities for shellfish issues within Town in order to ensure the protection of public health and sustainability in of our fisheries. The new regulations also codify several Best Management Practices (BMP's) for Aquaculture industry as established by the "Best Management Practices for the East Coast Shellfish Aquaculture Industry." These aquaculture specific regulations will help to ensure proper and safe management of the current and future aquaculture industry within Town.

Lastly, thru consultation with the Conservation Agent, who is also the Towns appointed Herring Warden; a section on Herring Rules and Regulations was added as authorized under the Mashpee Town By-Law 145-1. These new herring regulations allow the Herring Warden to formally address issues that have a history of occurring in order to protect the Town's valuable herring runs.

Changes Made to Existing Regulations

Changes to the Shellfish Regulations are too numerous to incorporate into memo form so the below changes represent the more significant improvements made to the regulations. For all changes please see the attached proposed new regulations.

Catch Limit Changes:

Recreational: The proposed change would decrease the harvest limit for recreational fishermen from two “Pecks” per week to one.

Justification: The two primary species harvested recreationally in Mashpee are oysters and quahogs. The oyster fishery is seasonal and already limited to one “peck” per person. Quahogs are harvested year round however, and with the current limited ability to source quahog seed this limit reduction is needed to keep the sustainability of the Town’s recreational quahog fisheries.

Commercial: The proposed change would increase the limit that commercial fishermen can harvest with the addition of two bushels or sorted “large” quahogs. (Any quahog over the size of littleneck is considered “large”).

Justification: Current regulations allow licensed commercial fishermen in Mashpee to keep 3 bushels of “mixed” (various sized) quahogs per day. Commercial fishermen are economically incentivized to keep only smaller product as it holds a higher market value. As a result the majority of larger quahogs are thrown back during the digging process to maximize daily profit. A proliferation of large quahogs in an area has the risk of causing “bottom stagnation,” in which smaller new stocks of quahogs are outcompeted by the older and larger quahogs in the area. This can result in the stagnation of a sustainable fishery. This new regulation will allow commercial diggers to take an additional two bushels of strictly larger clams to hopefully incentivize commercial diggers to keep larger quahogs instead of returning them to the water.

Addition of Other Regulated Species:

Other Species Regulations: The proposed regulation changes also incorporate applicable State M.G.L. and CMR laws and regulations pertaining to other species such as Blue Crabs, Conch, and Surf clams.

Justification: Incorporating current state laws and regulations serves as a powerful tool in order to address compliance issues with some of the lesser known shellfish species in Town. In particular Blue Crabs are an enormously popular recreationally fished species in Mashpee. Incorporating these laws and regulations will give the Shellfish Division the ability to address current issues regarding the poaching and management of these species.

Veteran Licensing:

Veteran Shellfish licenses: A new class of Veteran Shellfish Licenses has been added to the shellfish regulations in compliance with the 2018 “Brave Act” bill that was passed in Massachusetts.

Justification: The Brave Act of 2018 added a provision to M.G.L Ch. 130 Sec. 52 that no Municipality is allowed to charge an honorably discharged veteran service member a rate higher than the current resident rate for a shellfish license. This change to the Mashpee Shellfish Regulations formally codifies this and establishes a new shellfish license class for resident and non-resident veterans.

Recommendation

As the Town’s Shellfish Warden, responsible for the safe and productive management of the Town’s shellfisheries I respectfully recommend to the Board of Selectmen that they adopt these regulations forthwith in order to ensure Mashpee’s compliance with all applicable State guidelines and to safeguard both public health and the livelihood of independent aqua culturists in Town.

Respectfully Submitted,

Donovan McElligatt
Shellfish Warden
Town of Mashpee

CHAPTER 145 – SHELLFISH

History: Adopted by the Town of Mashpee as Ch. 4, Article 4.9, of the 1980 Code. Amendments noted where applicable.

§145-1 Promulgation of Shellfishing and Eeling Regulations; Violations and Penalties

The Board of Selectmen are authorized, from time to time, to make regulations governing the taking of shellfish and eels from the foreshores, flats and tidal waters of the Town of Mashpee. No such regulations shall become effective until a public hearing has been held by the Board of Selectmen and a public notice of the regulations adopted shall have been given. 113 The Selectmen shall be governed by all applicable General Laws in carrying out the authority vested in them by this chapter. Any violation of a regulation duly adopted by the Board of Selectmen shall be punished by a fine not to exceed three hundred dollars (\$300) in accordance with a schedule of fines set forth in the regulations.

History: Amended 12-3-1984 STM, Article 50.

History: Amended 10-7-1991 ATM, Article 36, approved by Attorney General 1-7-1992.

§145-2 Appointment of Herring Wardens

The Town Manager is authorized to appoint one (1) or more Herring Wardens and is authorized, from time to time, to make regulations concerning the opening and maintenance of ditches, sluiceways or canals into any pond within the Town not in private possession for the introduction and propagation in such pond or in any part thereof of herring, alewives or other swimming marine food fish and for the creation of fisheries for the same. No such regulations shall become effective until a public hearing has been held by the Board of Selectmen and public notice of the regulations adopted shall have been given.

History: See Charter, Section 4-2(B).

History: Amended 12-2-1985 STM, Article 52, approved by Attorney General 2-11-1986. History: Amended 10-17-2005 STM, Article 1, approved by Attorney General 3-16-2006.

2022 DRAFT TOWN OF MASHPEE SHELLFISH REGULATIONS



PLEASE READ THIS DOCUMENT
IT IS YOUR RESONSIBILITY TO KNOW THE RULES AND
REGULATIONS GOVERNING OUR SHELLFISHERY

Chapter 145-1: All persons shall read, or listen to a reading of, and understand the Mashpee Shellfish Regulations before shellfishing.

The Mashpee Selectboard hereby issues the following regulations for shellfishing in the Town of Mashpee as authorized by Massachusetts General Laws, Chapter 130, and Section 52. These regulations are effective as of _____ and remain in effect until further notice. These regulations supersede all previous regulations, which are hereby rescinded.

Adoption of regulations; posting of changes.

- A. These regulations are made by the Selectboard of the Town of Mashpee, under the authority of General Laws, Chapter 130, and the Town of Mashpee By-Laws. These regulations shall supersede and replace any former shellfish regulations and shall continue in force until rescinded or replaced by the Selectboard, or until the Selectboard's authority to make and enforce such shellfish regulations has been repealed.
- B. These regulations are subject to change from time to time and said changes will be posted at the Town Clerk's Office bulletin board, the Shellfish Division Offices, and the Natural Resources website.
- C. All persons shall read, or listen to a reading of, and understand the Mashpee Shellfish Regulations before shellfishing in the Town.

Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

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

APPRENTICE COMMERCIAL SHELLFISHING PERMIT — Granted under the authority of the Shellfish Warden to a resident child under the age of 16 for the purpose of assisting a sponsor Town of Mashpee commercial shellfish permit holder.

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

BATCH — All shellfish in each separate container.

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

BUSHEL — Except as otherwise noted, the quantity contained in a tote basket measuring 2,746 cubic inches in volume. Shellfish shall be level with the top of said tote basket.

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

CALENDAR WEEK — Seven full days beginning on any Sunday and ending on the following Saturday.

CHANNEL- The area marked by U.S. Coast Guard navigation buoys or Town PATON's indicating a navigable way of passage.

COMMERCIAL FISHERMAN — Any person who sells or offers for sale, shellfish, sea worms or eels, for cash or other consideration.

COMMERCIAL SHELLFISH PERMIT— Granted under the authority of the Selectboard, for the taking of shellfish for sale or other consideration.

COMMONWEALTH OF MASSACHUSETTS COMMERCIAL SHELLFISHING PERMIT — A permit issued by the Division of Marine Fisheries and defined in General Laws, Chapter 130, § 80.

CONCH — Those species of whelk known as *Busycon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

CMR - Code of Massachusetts Regulations.

CULL — To sort and measure shellfish; separate seed from adult stock and replant seed.

DOMICILE — That place where (a person) has his true, fixed and permanent home and principal residential establishment, and to which whenever he is absent he has the intention of returning

FAMILY — All those persons of the immediate family (spouse or partner and any unmarried children and grandchildren under the age of 18) domiciled and living under the same roof.

HARVEST — To catch, dig, take or attempt to catch, or take any fish, shellfish or bait.

HINGE WIDTH — The distance between the convex apex of the right shell and the convex apex of the left shell.

HYDRAULIC METHOD — The taking or attempt to take shellfish by means of water pressure pumped through a single pipe (wand), manifold or other device approved by the Shellfish Division, said pressure being supplied by a mechanical pump. The hydraulic method includes the raking or collection of shellfish dislodged from the bottom via said water pressure.

LAND or LANDING — To transfer the catch of fish or shellfish from any vessel to any other vessel or from the waters, flats or any vessel onto any land, pier, wharf, dock or other artificial structure.

MASTER PERMIT — A permit allowing the commercial harvest of scallops, clams, mussels and eels from contaminated areas for relay or depuration granted by the State.

PECK — The quantity contained in a standard metal wire peck basket, level with the top of said peck basket. Said quantity shall not exceed 10 quarts (672 cubic inches) dry measure. The said peck basket shall be the only authorized container allowed to recreationally harvest and contain shellfish unless another container is authorized by the Shellfish Warden.

RECREATIONAL PERMIT — A permit granted under the authority of the Selectboard for the taking of shellfish for noncommercial domestic use only.

RESIDENT — Resident real estate taxpayers, year-round tenants, non-seasonal tenants (with tenancies of six months or more of the calendar year) of residential dwellings located within the Town of Mashpee.

PROOF OF RESIDENCY — Current real estate tax bill, non-seasonal lease or, valid Massachusetts operator's license, or any other ID issued by the Massachusetts Registry of Motor Vehicles, in combination with Massachusetts motor vehicle registration, both listing a residential dwelling within the Town of Mashpee. The address of a post office box is not acceptable as proof of residency.

SEED CLAM — Soft shell clams measuring less than two inches in the longest diameter.

SEED OYSTER — Oyster measuring less than three inches in the longest diameter.

SEED BAY SCALLOP — Bay scallops which do not have a well-defined raised annual growth line on the shell.

SEED QUAHOG — Quahog measuring less than one inch shell thickness (hinge width).

SHELLFISH — Includes, but not limited to, clams, quahogs, mussels, oysters, scallops, razor clams or razor fish, sea clams, sea scallops, sea quahogs, conchs and whelks.

145.1 Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Mashpee's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the Commonwealth of Massachusetts, including Massachusetts General Law Chapter 130, Title 322 Code of Massachusetts Regulations, applicable orders and directives issued by the Commonwealth of Massachusetts Division of Marine Fisheries, and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

General Provisions

145.2.1 Poaching

Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130, §§ 9, 15A, 17D, 24, 27, 66.)

145.2.2 Daily Time Limits

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

145.2.3 No Same Day Landings in Excess of Daily Limit

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

145.2.4 Disturbance of Grant by Other than Licensee

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

145.2.5 Inspection on Demand

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

145.2.6 Areas Restricted to Use by Permit Class

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

145.3 Recreational Shellfishery

145.3.1 Classes of recreational shellfishing permits, licensing requirements and conditions.

Licenses shall be subject to fees that could change annually.

A. Resident recreational permits: Those who pay real estate taxes or are Residents, as defined herein, of the Town of Mashpee are entitled to a Town of Mashpee recreational shellfishing permit. This permit also allows the taking of sea worms, and eels for noncommercial purposes.

1. Family recreational permit: issued on the basis of one per Resident over the age of 18 with a max of two per Family, as defined herein.
2. Nonresident recreational permit: issued to an individual, regardless of residency. The same conditions as Resident recreational permits apply, with the exception of the requirement of Town of Mashpee residency.
3. Senior recreational permit: issued to an individual who has attained the age of 65 and is a legal Resident of, or pays real estate taxes to, the Town of Mashpee; two permits per Family, as defined herein.
4. Veteran recreational permit: issued to a resident of the Commonwealth of Massachusetts who is a veteran, as defined by MGL c. 4, § 7, cl. 43rd, as amended by the Acts of 2005, Chapter 130. The same conditions as Resident recreational permits apply, with the exception of the requirement of Town of Mashpee residency.

145.3.2 Permit conditions.

- A. Permit expiration date: Recreational permits expire on March 31st, each year, except as otherwise noted.
- B. Unlawful harvest without a recreational permit: No person shall take or attempt to take shellfish or sea worms within the Town of Mashpee unless he or she is in possession of a valid Town of Mashpee shellfish permit or is otherwise legally entitled to engage in such activity, including Native Americans with valid tribal identification cards who assert aboriginal rights to harvest for sustenance purposes.
- C. Prohibition of sale of shellfish: No person shall sell or offer for sale, for money or other consideration, any shellfish, sea worms, herring or eels, taken under a recreational permit.
- D. Transfer of permit: The Town of Mashpee shellfish permit is not transferable. An illegally transferred permit shall be considered invalid and revoked.
- E. Child under 12: No person (child) under the age of 12 years shall be allowed to use the recreational permit unless accompanied by an adult with a valid shellfish permit.

- F. Guests of a recreational permit holder: A recreational permit holder may take guests to dig with them as long as only one weekly limit is taken. One limit per permit is allowed. The permit holder must be present and is responsible for any violations against the shellfish rules and regulations by the guest(s).
- G. The Town of Mashpee shellfish permit shall be visibly displayed to the Shellfish Warden, Deputy Shellfish Warden or Natural Resource Officer upon request.
- H. Landing restriction: All shellfish harvested under a recreational permit shall be landed in the Town of Mashpee.

145.3.3 Harvest time restrictions.

- A. Harvest days. Shellfish taken under a recreational permit may be harvested on any day of the week. The shellfishing calendar week consists of seven full days beginning on any Sunday and ending on the following Saturday.
- B. Other harvest day restrictions.
 - (1) Scallops. (See scallop regulations.)
 - (2) Oysters. Season dates will be posted annually at Mashpee Neck Landing and the Shellfish Division Website.
- C. Harvest hours. No person shall take or attempt to take shellfish or sea worms during the nighttime hours, between sunset and sunrise.

145.3.4 Harvest limits.

- A. With the exception of scallops, the total amount of shellfish taken on a recreational permit in any one week shall not exceed one peck. The recreational weekly limit for the following species of shellfish, worms and eels, in season, shall be:
 - 1. Soft shell clams: one level peck, as defined.
 - 2. Quahogs: one level peck, as defined.
 - 3. Mussels: one level peck, as defined.
 - 4. Sea scallops: one level bushel, as defined.
 - 5. Sea clams: one level bushel, as defined.
 - 6. Oysters: limits will be posted annually.
 - 7. Razor clams: one level peck, as defined.
 - 8. Jackknife clams: one level peck, as defined.
 - 9. Sea worms: not more than 100.
 - 10. Eels: 5 per day.

- B. Authorized recreational shellfish container: All shellfish harvested under a recreational shellfishing permit shall be harvested and contained in a standard metal wire peck basket as defined. No other containers are allowed unless approved by the Shellfish Warden or a Deputy Shellfish Warden.

145.3.4 Minimum size limits.

A. Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession (in basket, bucket, bag or other container):

1. Soft shell clams less than two inches in longest diameter
2. Quahogs less than one inch shell thickness (hinge width)
3. Bay scallops without a well-defined raised annual growth ring
4. Blue or Ribbed mussels less than two inches in longest diameter
5. Sea scallops less than 3 1/2 inches in diameter from the hinge to the outer edge to the amount of more than 10% of the entire lot. This tolerance of 10% shall be determined by numerical count taken at random of not less than one peck nor more than four pecks of the entire lot.
6. Sea clams less than five inches in longest diameter
7. Oysters less than three inches in longest
8. Eels or elvers less than nine inches in total length.
9. Blue Crabs less than 5 inches Spine to Spine

145.3.5 Gear restrictions and regulations.

1. Clams and razor clams may be taken with a standard clam hoe (rake) or hand plunger. No shovels, forks or other devices or materials shall be used, unless approved by the Shellfish Division.
2. Quahogs and oysters may be taken by hand, rakes, tongs, and dipnet. A bullrake or jerk rake may only be used in the Commercial Fishery. No other device may be used, unless approved by Shellfish Division.
3. Eels and elvers may be taken by pots, spears or angling. A recreational shellfish permit must be in possession; the limit for recreational permit holders is 10 pots; all pots and buoys are to be marked with the permit holder's name, and buoys must be painted bright green.
4. Skin or scuba diving. All people's skin or scuba diving for shellfish shall display the diver-down flag and, upon request, produce a Town of Mashpee shellfish permit.

145.3.6 Shellfishery conservation and management.

1. Temperature restriction. Dry digging for soft shell clams and quahogs is prohibited when the air temperature is 28° F. or below.
2. Backfilling of dig holes. All dig sites shall be backfilled when dry digging all shellfish.
3. Mainland thatch conservation. The digging of shellfish in the thatch (grass) on the mainland shore is prohibited. Shucking restriction. All shellfish harvested shall be brought ashore in the shell.

4. Wet storage prohibition. The wet storage of shellfish in the Town of Mashpee waters is prohibited. The fine for violation of this section is \$200.
5. Transport of seed restriction. No person shall transport or move seed clams, quahogs, oysters or scallops.
6. Area closures. No person shall take or attempt to take shellfish from a closed area. Shellfishing for any purpose is prohibited in these areas. (See also shellfish area status.) Areas may be posted closed from time to time by the Shellfish Division due to high concentrations of seed, point source pollution or health hazard, propagation projects or other purpose. The taking of shellfish from these areas is prohibited. Also, the taking of shellfish from any shellfish culturing gear or tampering with said gear deployed by public and/or private entities on approved designated areas is prohibited. Said approved designated areas shall be considered closed areas.
7. Inspections. All shellfish, eels, lobsters, crab and sea worms harvested in the Town of Mashpee are subject to inspection. Failure to display shellfish upon demand of enforcement personnel shall be a violation.
8. Destruction of shellfish or shellfish habitat. The willful destruction of shellfish and/ or shellfish habitat is prohibited and shall be punishable by a fine up to \$300 per incident, and \$300 per day for any such destruction which continues over more than a twenty-four-hour period of time.

145.3.7 Recreational scallop regulations.

1. Closed season. The harvest of scallops shall be closed (prohibited) effective April 1 annually, MGL C. 130, § 71. Open season will be posted annually.
2. Recreational harvest limit. One peck per week may be harvested.
3. Minimum size limit. Only scallops with a well-defined raised annual growth ring may be taken; all other scallops will be considered seed scallops and must be returned to the water immediately, with one exception provided in 322 CMR 6.11. This exception states bay scallops that have a well-defined raised annual growth line located less than 10 millimeters (mm) from the hinge of the shell shall be lawful to harvest and possess if the shell height is at least 63.5 millimeters or 2.5 inches. It shall not be unlawful to have in possession seed scallops unavoidably left in the catch after it has been culled.
4. Gear restriction. Scallops may be taken by hand, rake, dip net and dragging in all areas that are not closed to dragging. In such areas closed to dragging, they may be taken by hand, dip net, rakes and diving. No other devices may be used.

145.3.8 Regulations pertaining to other species.

145.3.8 Herring and alewife rules and regulations

1. It shall be unlawful hereunder for any person to harvest, possess or sell river herring in the Town of Mashpee or in waters under the jurisdiction of the Commonwealth of Massachusetts unless said person is otherwise legally entitled to engage in such activity, including Native Americans with valid tribal identification cards who assert aboriginal rights to take river herring for sustenance purposes.

2. Conservation. Throwing objects into the water and/or malicious destruction of the herring and alewives is prohibited.
3. Unauthorized alteration of herring runs. No person shall tamper with, adjust or destroy any structure provided for the passage of herring and alewives unless authorized by the Herring Warden.
4. The penalty for violation of any of these regulations shall be \$100. Possession of river herring shall carry the penalty of \$50 per fish, each fish constituting a separate offense.

145.3.8.2 Edible Crab regulation

- A. **Blue crab:** 5 in shell width (spine to spine) Egg-bearers cannot be taken. Limit of 25 crabs/day. No permit required unless using traps or SCUBA. Closed season on harvest is January 01–April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.
* Prohibition: Using traps to fish for blue crabs and retaining blue crabs taken by trap gear is prohibited. Only actively fished gear may be fished for blue crabs. This includes trot lines, dip nets, and collapsible traps.
- B. **Other edible crabs:** 50 crabs total per day (including up to 25 blue)—other regulations are the same as for blue crab. Closed season on harvest is January 01–April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.
- C. **Invasive crabs:** In order to harvest green crabs, you must obtain a Letter of Authorization (LOA) from the Division of Marine Fishery's. Closed season on harvest is January 01–April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.

For recreational rules and regulations pertaining to other species including conch, whelk, ocean quahog, sea scallop, lobster, crabs and sea urchins, refer to Massachusetts General Laws Chapter 130 and Title 322 Code of Massachusetts Regulations. All laws within Ch. 130 and CMR 322 pertaining to salt water fisheries are hereby incorporated by reference into these Regulations.

145.4 Commercial Shellfishing

145.4.1 Classes of permits and permit conditions.

1. Town of Mashpee commercial shellfishing permits are granted under the authority of the Selectboard for the taking of shellfish for sale or other consideration, issued to persons, other than aliens, having attained their 16th birthday and who are domiciled in the Town of Mashpee. When the holder of a Town of Mashpee commercial shellfish permit is no longer domiciled in the Town of Mashpee, said Town of Mashpee commercial shellfish permit shall be void.
 - a. Limitation of available licenses. Commercial shellfishing licenses shall be issued each year only to commercial shellfish license holders of the preceding year who apply for license renewal. Commercial shellfish license renewals must be applied for between January 1 and January 31.

- b. Commonwealth of Massachusetts commercial shellfishing permit.

This permit is required by Massachusetts General Law to dig or take shellfish within the Commonwealth of Massachusetts for commercial purposes and required prior to issuance of the Town of Mashpee commercial shellfish permit.

- c. Town of Mashpee commercial shellfishing permit fee: \$125
- d. Commercial shellfishing permits expire on March 31 each year.
- e. Unlawful harvest without a commercial shellfishing permit. No person shall take or attempt to take shellfish for sale or other commercial purpose, unless said person is the holder of a valid Town of Mashpee commercial shellfish permit. It shall be prima facie evidence that persons shellfishing on a Town of Mashpee commercial shellfish permit are utilizing said permit for commercial purposes, and are subject to all regulations governing such use. This shall not apply to holders while on their licensed site.
- f. Catch report. A catch report for the calendar year shall be submitted to the Shellfish Division, on forms provided, no later than January 15 annually. Failure to submit a catch report will result in a fine of no more than \$300, as per the determination of the Shellfish Division, and may result in a suspension of the Town of Mashpee commercial shellfish permit for one year, commencing the next commercial permit year (April 1 to March 31).

145.4.2 Commercial shellfishing permit application procedure

1. Each applicant for a Town of Mashpee commercial shellfish permit shall fill out and submit an application form, provided by the Town Clerk's Office, with an application fee of \$5; said application fee is not refundable but will be applied to the permit fee when said permit is picked up. Attached to the application shall be a copy of:
 - a. Commonwealth of Massachusetts commercial shellfish permit, valid for the year being applied for.
 - b. Documentation to verify the applicant is domiciled in the Town of Mashpee. This may be current real estate tax, mortgage or lease and copy of motor vehicle registration. (A driver's license is not proof of domicile.) The burden of proof is on the applicant.
 - c. Validated catch report stub from the year previous to the year being applied for.
2. Application window. Each applicant for a Town of Mashpee commercial permit must apply for said permit between January 1 and January 31 annually. Applications will not be accepted after January 31 without written request to the Shellfish Division that establishes significant personal hardship that precluded a timely application. After paying the initial application fee of \$5 for the commercial permit, the applicant must pick up and tender the balance of the permit fee within 90 days after the application deadline.

3. Address change. Should any commercial permit holders address change during the commercial permit year, he/she must notify the Shellfish Division Office, in writing, of said address change.

145.4.3 General commercial shellfishing.

1. No person shall take or attempt to take shellfish or sea worms during the nighttime hours, between sunset and 1/2 hour before sunrise.
2. Tagging shellfish and display of shellfish permit.
 - a. The regulations for tagging shellfish set forth in 322 CMR 16.03 are hereby incorporated and made a part hereof.
3. All shellfish, commercial permits and licenses shall be displayed for inspection upon demand of a Shellfish Warden, Deputy Shellfish Warden, or Town of Mashpee Natural Resource Officers.
4. No person shall possess shellfish in excess of daily commercial limit while in or on the waters of the Town of Mashpee or while landing their catch.
5. After the completion of harvest, all shellfish harvested in the Town of Mashpee under a commercial permit shall be landed at a Town landing. The word "landed" as used herein shall mean the location where shellfish are removed from the shoreline to any point of land above the mean high-water line.
6. A commercial shellfish permit holder shall not take in any one day shellfish in excess of the commercial quantity allowed by statute or regulation, regardless of the fact that he or a member of his Family may hold a Family shellfish permit.
7. The wet storage of shellfish in Town of Mashpee waters is prohibited. The fine for wet storage is \$200.
8. All persons engaged in skin- or scuba-diving for the commercial harvest of shellfish shall display the diver-down flag and, upon request, and produce a Town of Mashpee commercial shellfish permit.
9. Hydraulic method or hand plunger shall be used to harvest subtidal soft-shell clams, jackknife clams and common razor clams. The harvest of other species of shellfish utilizing the hydraulic method is prohibited.

145.5 Commercial Soft-Shell Clam Shellfishing

145.5.1 Other applicable regulations; minimum size limit; harvest limit.

1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations apply. In addition, the following conditions, rules, and regulations apply.

2. Minimum size limit. Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession (in basket, bucket, bag or other container) soft-shell clams less than two inches in longest diameter to the amount of more than 5% of any batch.
3. Commercial soft-shell clam harvest limit. The total daily limit of soft-shell clams commercial harvest shall not exceed three level tote baskets, as defined.
4. Gear restriction. Pumps shall not exceed eight horsepower and shall be equipped with proper muffler and exhaust system. Pumps shall be mounted low in the boat to limit noise.

145.6 Commercial Quahog Shellfishing

145.6.1 Other applicable regulations.

1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations and shellfishery conservation and management regulations apply. In addition the following conditions, rules and regulations apply:
 - a Littleneck: greater than or equal to one-inch hinge width; less than 2 1/2 inches in longest diameter.
 - b Cherrystone: greater than or equal to 2 1/2 inches; less than three inches in longest diameter.
 - c Chowder: greater than or equal to three inches in longest diameter.
2. Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession (in basket, bucket, bag or other container) quahogs less than one inch shell thickness (hinge width) to the amount of more than 5% of any batch.
3. Quahogs may be commercially harvested by hand, rakes, tongs, dipnet and bullrake. No other device may be used, unless approved by the Shellfish Division
4. All helpers actively assisting a commercially licensed shellfisherman harvesting quahogs are not required to hold a valid Massachusetts commercial shellfish and sea worms permit. Said helper shall be allowed to cull and sort the quahog catch and return seed to the water. Said helper shall not be allowed to harvest quahogs. All helpers must present their valid Massachusetts commercial shellfish and sea worms permit, in person, to the Shellfish Division office prior to initially assisting a commercially licensed shellfisherman.
5. The total daily limit of littleneck, cherrystone or mixed (littleneck/cherrystone) shall not exceed three level tote baskets, as defined. The total daily limit of all quahogs (i.e., littlenecks, cherrystones and chowders) shall not exceed five level tote baskets in any combination. Chowder quahogs shall be culled and bagged separately from littlenecks and cherrystones prior to landing, if the total catch exceeds three tote baskets.

145.7 Commercial Scallop Shellfishing

145.7.1 Other applicable regulations.

1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations apply. In addition, the following conditions, rules and regulations apply.
2. Scallops may be commercially harvested daily, Saturday thru Sunday.
3. The harvest of scallops shall be prohibited from April 1 through October 1 annually per MGL C. 130, § 71. Open season will be posted annually.
4. Harvest limits will be posted annually at the Town Clerk's Office, the Town of Mashpee Natural Resources website, and at Town owned bulletin boards at Town landings.
5. Only scallops with a well-defined raised annual growth ring may be taken; all other scallops will be considered seed scallops and must be returned to the water immediately. However, it shall not be unlawful to have in possession seed scallops unavoidably left in the catch after it has been culled to the amount of not more than 5% of the total catch remaining.
6. Scallops may be taken by hand, rake, dip net and dragging in all areas that are not closed to dragging. In such areas closed to dragging, they may be taken by hand, dip net, rakes and diving. No other devices may be used.
7. No drags or dredges shall exceed 32 inches in width.
8. No dragging shall be permitted in any of the Town of Mashpee's embayments or saltwater rivers or ponds. Dragging is only permitted in Nantucket Sound.
9. All helpers actively helping a commercially licensed shell fisherman, harvesting scallops, shall be required to hold a valid Massachusetts commercial shellfish and sea worms permit. However, no such permit is required to operate the boat. All helpers must present their valid Massachusetts commercial shellfish and sea worms permit, in person, to the Shellfish Division Office prior to initially helping a commercially licensed shell fisherman.
10. There shall be not more than two harvest limits allowed per boat for commercial permit
11. It shall be unlawful for the holder of any type of permit to sell or offer for sale, or transfer their catch, unless landed ashore.

145.8 Commercial Shellfishing and Fishing Regulations for Other Species

145.8.1 Applicability of other regulations.

All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations (M.G.L. Ch. 130 and CMR 322) apply for each species. In addition, the following conditions, rules, and regulations apply for the individual species as listed.

145.8.2 Commercial jackknife clam and common razor clam shellfishing.

Commercial jackknife clam (*Tagelus plebeius*) and common razor clam (*Ensis directus*) harvest limit. The total commercially harvested daily limit of either species shall not exceed one level tote basket, whether harvested in the areas open for commercial harvest

145.8.3 Commercial oyster shellfishing.

The commercial harvest of oysters is prohibited in the Town of Mashpee, except for licensed Aquaculturists on their licensed sites.

145.8.4 Commercial elver and eel fishing.

1. It is unlawful for a person to take or possess elvers or eels of a size less than nine inches in total length.
2. No person shall take or attempt to take eels for the purpose of sale or any commercial purpose unless he or she is the holder of a Town of Mashpee commercial permit endorsed for eels.
3. No person shall take or attempt to take eels, *Anquilla rostrates*, by any contrivance other than by pots, spears or angling. The use of eel pots with a wire mesh size smaller than 1/2 inch by 1/2 inch is prohibited.
4. All buoys will be painted the Town eel fishery color, bright red, the Town Shellfish permit number shall be displayed on all buoys. A colored stripe may be added for identification.
5. Pots shall not be set in navigable marked channels. No person shall fish in excess of 2 pots.
6. Freshwater eeling. Commercial eeling in freshwater is allowed by special state permit. A valid Massachusetts fishing license is also required

145.9 Shellfish Area Status

Periodically updated shellfish area maps and shellfish area openings and closures are available online at: Town of Mashpee Natural Resources: Shellfish Division page

Shellfish maps displayed on this web site are to illustrate written geographical definitions of shellfish areas, as defined by the Massachusetts Division of Marine Fisheries and the Town of Mashpee Shellfish Division. In the field, signposts, buoys and landmarks are used to assist in the demarcation of written geographical definitions of shellfish areas. Check with the Shellfish Division Hotline (508) 539-1400 ext. 8592 to verify shellfish area closures. The harvest of shellfish is prohibited in those areas posted by the Shellfish Division, regardless of the fact that weather or man may from time to time remove signage. If an area has been posted and signage is missing, notify the Shellfish Division.

145.10 Aquaculture License Regulations

145.10.1 Proof of residency required.

Aquaculture licenses, herein referred to as the "license," will be issued only to Town of Mashpee residents who prove to the satisfaction of the Selectboard, as licensing authority, that they are a bona fide, principally domiciled Resident of the Town of Mashpee and have been principally domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency are required; tax bills paid by the applicant, rent receipts with accompanying lease agreement, utility bills paid by the applicant, driver's license, car registration issued to the applicant, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL c. 40, § 57. The license for any area licensed subsequent to the adoption of these rules and regulations shall be forfeited if the holder of the license, herein referred to as the "licensee," ceases to be a bona fide, principally domiciled Resident of the Town of Mashpee. Annual documentation to verify the licensee is principally domiciled in the Town of Mashpee is required. This may be a current real estate tax bill, mortgage statement or residential lease and copy of motor vehicle registration. (A driver's license is

not valid proof of domicile.) The burden of proof is on the licensee and shall be included with the annual license fee, due by February 28th each year.

145.10.2 Moratorium on issuances of new licenses.

The Selectboard may, in its discretion, issue a moratorium on the issuance of new licenses at any time when such action is deemed appropriate and in the best interests of the Town's shellfisheries.

145.10.3 Compliance with all laws required; approval of license.

The approval of any aquaculture license shall be subject to all federal, state and local laws, rules and regulations, as in force and as may be amended from time to time. The licensee shall comply with all such rules and regulations pertaining to the operation of an aquaculture license in the state of Massachusetts. Failure to comply with any of the aforementioned laws, rules and regulations shall be cause to revoke the license.

145.10.4 Exclusivity of license; subleasing prohibited; transfer of license.

Licenses are issued to and for the exclusive use of the licensee, who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited. Licenses are renewable, heritable, and transferable, subject to the Selectboard's written approval and pursuant to applicable provisions of Massachusetts General Law Chapter 130. Licenses are transferable only after five years from the original license issuance date, subject to review by the Shellfish Division for reporting requirements and production standards and pursuant to Massachusetts General Law Chapter 130. A licensee proposing to transfer his or her license shall first notify the Shellfish Warden in writing that he/she no longer wishes to operate the license and requests a transfer of his/her licensed area to a designated recipient. Such recipient shall thereupon file an application. Thereafter, the application shall be treated, insofar as apt, as a new application. If, however, the licensee is under any pending investigations or violations, the license may not be transferred.

145.10.5 Changes to original plans.

All proposed changes to the original working plans as described in the original application, and all additions of material investments, which may include, but are not limited to, rafts, floats, racks, cages, trays, nets, etc., must be submitted in writing to the Shellfish Division and if in the discretion of the Shellfish Division changes are such that further review is warranted then the Shellfish Division may recommend to the Conservation Commission if applicable that further review of the proposed change take place and the Shellfish Warden, upon review of the proposed change may approve or deny said proposed change.

145.10.6 New license period; renewal.

A new license shall be issued for a period not to exceed five years, and for a total maximum area not to exceed two acres. The licensee may apply for renewal of the license at any time within two years prior to the expiration date of the license. The Selectboard shall review, approve, or deny the licensee's request for renewal within 60 days after receipt of the renewal request.

145.10.7 Acreage limitation.

The maximum total acreage licensed to any licensee shall not exceed two acres. This acreage limitation does not apply to any existing so-called grant (now referred to as a "license") which is in excess of two acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals, provided that said licensee abides by all other applicable regulations set forth herewith.

145.10.8 License fee.

An annual license fee of \$25 per acre, or any part thereof, shall be paid to the Town by the licensee upon the issuance of the license and, thereafter, on or before February 28th of each year. If the fee is not paid within 30 days after it becomes due, the license shall be forfeited. A full production report is required to be submitted to the Shellfish Division for approval prior to the yearly renewal.

145.10.9 Reasonable production value.

An annual review of each license will be conducted by the Shellfish Division in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year, the license shall be forfeited. For purposes stated herein, "reasonable amount of shellfish product" shall mean not less than \$5,000 per acre per year based upon market value. This amount is subject to change with inflation rates. Failure of the licensed shellfish product to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value, then upon written request to the Shellfish Warden, said reasonable production value may be waived at the discretion of the Shellfish Warden for that particular year, provided that the licensee can demonstrate to the Shellfish Warden that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune.

145.10.10 Filing of annual reports.

Licensees shall file annual reports with The Shellfish Division in accordance with the form provided on or before February 28 of each year and shall produce documents upon the request of the Shellfish Division showing purchase and sale slips stating the total amount of each kind of shellfish planted, produced, or marketed during the preceding year (January 1 through December 31) upon or from the licensed area, and an estimate of the total number of each kind remaining. The report shall disclose all necessary information as required by these regulations which establishes that the licensee reached the reasonable production value. A new license holder is required to submit purchase and sale slips for the source(s) of seed planted on his/her licensed site and/or gear purchased for his/her licensed site for the first three years of his/her original license.

145.10.11 Transplanting seed stock from public fisheries prohibited

No person shall transplant seed, seed stock or stock from the public fisheries within the Town for purposes of stocking licensed aquaculture land with such seed or stock. Noncompliance with this regulation shall subject the licensee to a fine hereunder.

145.10.12 Marking boundaries of licensed areas.

1. Licensees shall use yellow buoys not less than 15.5 inches in shortest diameter to mark only the most external changes of angles on shellfish aquaculture sites. The buoys shall bear the state propagation permit number issued to the licensee and the words "Aquaculture Area." Said numbers and letters shall not be less than two inches in height. The minimum weight requirement for said buoys should be at least 75 lbs.
2. All other licensed area boundaries shall be marked at all corners and changes of angles by uniform yellow buoys, not less than 11.5 inches in shortest diameter, and bear the state propagation permit number issued to the licensee. Said numbers shall not be less than two inches in height. Where a licensed area borders another licensed area, a buoy may bear the state propagation permit number of more than one licensee. All said buoys shall be deployed from April 1 until November 15, annually.
3. Any proposed alternative marking of a licensed area must be submitted in writing to the Shellfish Division and if in the discretion of Natural Resources the changes are warranted, they may be approved in writing. The Harbormaster may direct licensees of licensed areas that border navigational channels to use specified buoys to mark their licensed area boundaries for navigational purposes.
4. Each licensee is responsible for maintaining the buoys marking their licensed area. Failure to place or reasonably to maintain said buoys shall be sufficient cause for revocation of the license. Said regulation is subject to fine schedule for noncompliance. The Shellfish Warden shall have the authority to temporarily waive these regulations if the presence of ice, severe weather or other condition hampers the ability of the licensee to immediately comply with these regulations.

145.10.13 Conditions for Use of Area Licensed for Aquaculture

The Selectboard may license specific areas beneath the waters of the Town to individuals for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of MGL Chapter 130, the regulations and orders/ directives of the Division of Marine Fisheries, these Regulations and other applicable Town By-laws, as well as any specific conditions or restrictions set forth in the license by the Selectboard. A licensee shall have the right to the exclusive use of the lands and waters described in a license for the purposes of growing shellfish thereon. This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish upon privately owned property may not proceed over the objection of the property owner. This license does not authorize any damage to private property or other violation of private rights. The issuance of this license is not a determination or transfer of title or ownership. The licensee acknowledges that it is his/her responsibility to obtain permission, if requested in writing, from a property owner before exercising any rights conferred by the license other than for the planting, growing and harvest of shellfish on that property. However, the licensee is on notice that the owners of the property described in the license may, notwithstanding applicable licensure provisions of General Law and these Regulations, bring an action for trespass in a court of competent jurisdiction. A licensee is further required to comply with other laws of the Commonwealth, including environmental laws and laws concerning interference with navigation.

145.10.14 Working of Grants by Non-Licensees

All individuals authorized by a licensed grant holder to work the grant in the absence of a licensed grant holder must be registered with the Shellfish Division. Licensees are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their license.

145.10.15 Responsibility for gear and tackle

The license holder assumes all liability for all gear and tackle used on the licensed site. If any such gear and tackle is moved to a location off the licensed site, it shall be the responsibility of the licensee to remove said gear. If within 21 days after notification to the licensee by the Shellfish Division that the licensee has not complied with this requirement, the Town may cause such gear and tackle to be removed at the expense of the licensee. Every licensee shall permanently mark or tag, in a conspicuous place, any and all gear and tackle used on the licensed site, including without limitation trays, bags, racks, lines and pipes with the six-digit state propagation permit number issued to the licensee. Netting shall be marked or tagged in a conspicuous place, per every 200 square feet. Said regulation is subject to a fine schedule for noncompliance. The Shellfish Warden shall have the authority to temporarily waive these regulations if the presence of ice, severe weather or other condition hampers the ability of the licensee to immediately comply with these regulations.

145.10.16 Removal of gear upon termination of license.

When a license is discontinued or terminated for any reason, the license holder shall be required to remove all gear from the waters and substrate within 60 days of the license termination date. Any and all equipment not removed within 60 days may be removed by a third party, contracted by the Town, at the expense of the licensee.

145.10.17 Harbor improvements; migration of navigational channels.

No licensee shall hold the Town of Mashpee or the Commonwealth of Massachusetts liable for any damage to a licensed site as a result of harbor improvements. Any license bounded by a navigational channel, as defined by the Harbormaster, that has migrated by natural or man-made causes into or through a permitted shellfish license and has eroded a portion of the permitted land within the license to a navigational depth of at least three feet at mean low water, said channel shall become the natural boundary of the license and supersede any previous agreed boundaries of the license. The license holder shall sacrifice any and all rights of his/her license within this defined navigational channel. Should sediment migrate and settle, due in whole or in part to natural conditions, leaving an area along the channel with less than three feet of water at mean low tide and adjacent to a licensed site less than two acres in size, a licensee may apply in writing to redefine the boundaries of the license along the channel through the Shellfish Division. Final determination of whether or not a redefinition of boundaries is warranted will be decided by the Selectboard at a public hearing.

145.10.18 Inspection of containers; samples for disease testing.

The Shellfish Warden and/or assistants shall have authority to inspect the licensed area at any time, and said inspection may include any and all containers on the site. In the event that the Shellfish Warden and/or assistants have reason to believe that inspection of the contents of any or all containers on the site is in the best interest of the town, the Shellfish Warden and/or assistant shall contact the licensee by telephone or by leaving a notice at the address of the licensee indicated on the license, however, advising the licensee that the Town intends to inspect the contents of containers on the license and further inviting the licensee to be present at the time of said inspection. In the event that the Shellfish Warden and/or assistant does not receive a response from the licensee within 48 hours of notification by phone or by written notice, the inspection of containers may be conducted without the presence of the licensee. The Town of Mashpee reserves the right at any time to obtain samples of any shellfish from a licensed area for the purpose of certified testing for disease.

145.10.19 Taking without consent from licensed site.

Whoever takes or attempts to take shellfish of any description upon any shellfish grounds or beds covered by a license granted by the Town of Mashpee or Commonwealth of Massachusetts, or in any way disturbs the growth of shellfish thereon, or whoever discharges any substance which may directly or indirectly injure the shellfish upon any such grounds or beds, without the consent of the licensee or transferee shall be subject to fine for said violation as provided in the Fine Schedule herein.

145.10.20 Required Icing and Shading of Product

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

145.10.21 Required Notification during Vibrio Season

In order to best safeguard public health and maintain sufficient logging during *Vibrio* season all harvesters must notify the Shellfish Division of any harvests or re-submergence activities prior them taking place. Notice should be given as soon as the harvester can reasonably assume that such activities will be taking place. Penalties for this section will be \$50 for the first offense, \$150 for a second offense and confiscation of product for a third violation within one *Vibrio* season.

145.10.22 Harvest Must Be Tagged

At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags. (CMR 322 sec 16.)

145.10.22 Annual Inspection of Each Grant

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

145.10.23 No Lethal Predator Control Measures

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

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

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

145.10.25 Marking of Gear

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

145.10.26 Fines for Gear Violations.

Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a \$50 ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

145.10.27 Exception to Hours of Operation

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

145.10.28 Extension of Acreage without Permission

No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. The Shellfish Warden may cause a licensed area to be re-surveyed by a registered civil engineer at the cost of the license holder, in the event that the assigned boundaries of an aquaculture license are called into question. If a violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked.

145.10.29 Containers Holding Undersized Shellfish Must Be Tagged

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

145.10.30 Aquaculture Research and Development Projects

1. License for Aquaculture Research and Development

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

2. Initial Term of License

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

3. Plan of Project

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

4. Dissemination of Data and Results

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

5. Excess Product Returns to Town

Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development shall be turned over to the Town of Mashpee Shellfish Division for use in municipal propagation.

145.10.31 License review and/or revocation.

Violation of these Regulations subjects the licensee to review and possible revocation of the license at the discretion of the Town of Mashpee Selectboard.

145.10.32 Severability.

If any provision of these Regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these Regulations shall remain in full force and effect and not be affected thereby.

145.11 Enforcement and Penalties

145.11.1 Enforcing persons.

The foregoing regulations shall be enforced by the Shellfish Wardens, Deputy Shellfish Wardens, Natural Resources Officers, and for the purposes of herring enforcement only, Conservation Agents, hereinafter called "enforcing persons."

145.11.2 Violations and penalties.

Enforcing persons may in their discretion, initiate criminal proceedings for any violation thereof. Alternatively, enforcing persons may utilize the method of noncriminal disposition established by Chapter 1, Article III of the Town of Mashpee By-Laws and M.G.L. Ch.40 Section 21D. The fine for violation of regulations not specifically listed in the fine schedule below shall be \$50.

145.11.3 Revocation or suspension of Town permit.

The Town of Mashpee shellfish permit, recreational or commercial, may be revoked or suspended by the Selectboard for any violation of the Town shellfish regulations.

145.11.4 Missing signs.

The harvest of shellfish is prohibited in those areas posted by the Shellfish Division, regardless of the fact that weather or man may from time to time remove signage memorializing the posting. If an area has been posted and signage is missing, notify the Shellfish Division.

145.11.5 Fine Schedule.

Violation	Fee (1st Offence)	Fee (Second Offence)
Shellfishing Without a Permit	\$100.00	\$200.00
Illegal Transfer of Permit	\$50.00	\$100.00
Using False Identification	\$50.00	\$200.00
Selling Shellfish Without a Permit	\$200.00	\$300.00
Possession of Seed	\$50.00	\$150.00
Exceeding Shellfish Limit	\$50.00	\$100.00
Shellfishing in a Closed Area	\$150.00	\$300.00
Shellfishing in a Contaminated Area	\$300.00	Loss of License
Taking Shellfish From a Shellfish Aquaculture License	\$200.00	Loss of License
Taking Shellfish During Closed Season	\$100.00	Loss of License




TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

MEMORANDUM

Date: May 18, 2022
To: Rodney C. Collins, Town Manager and
Honorable Members of the Board of Selectmen
From: Stephanie A. Coleman, Administrative Secretary 
Re: Private to Public Road Conversion - Order of Taking for Oldham Circle

Description

Discussion and Approval of the Order of Taking for the public to private road conversion project for Oldham Circle.

Background

Attached is the Order of Taking for Oldham Circle. The layout entitled "Oldham Circle Road Taking Plan" was filed with the Office of the Town Clerk on May 11, 2022 and said plan was accepted by a vote at a Town Meeting held on May 2, 2022.

Estimated Betterment Cost:

Construction \$ 364,285.00
Processing \$ 5,150.00
Interest 5% \$ 18,471.75

Total \$ 387,906.75 = \$ 55,415.25 – Cost per seven (7) property owners.

Recommendation

M.G.L Ch. 80 states that an order which states that betterments are to be assessed for improvements shall contain a description sufficiently accurate for identification of the area which it is expected will receive benefit or advantage, other than the general advantage to the community, from such improvement, and shall refer to a plan of such area, and shall contain an estimate of the betterments that will be assessed upon each parcel of land within such area; and such order, plan and estimate shall be recorded, within ninety days from the adoption of the order, or from the acceptance by a town of the layout.

Therefore it is recommended that the Board approve adoption of the order to ensure a timely recording of the plans and estimate.



TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

ORDER OF TAKING TOWN OF MASHPEE OLDHAM CIRCLE

The Board of Selectmen of the Town of Mashpee, a municipal corporation located in the County of Barnstable, Commonwealth of Massachusetts (the "Town") having complied with the preliminary requirements prescribed by law for the layout and acceptance of Town ways, voted to accept as a public way the layout of Oldham Circle as shown on plans entitled "Oldham Circle Road Taking Plan", dated December 20, 2020, in Mashpee, Massachusetts (Barnstable County) and prepared by Cape and Islands Engineering, which plan was approved by said Board, and describes the boundaries of such way and the land included within the boundaries thereof. Said plan was filed with the office of the May 11, 2022. The layout was accepted by a vote at a Town Meeting duly called for that purpose and held on May 2, 2022. It is the purpose and intent of the Order of Taking to acquire for the Town the requisite legal interest in the land located within the boundaries of said way for the purpose of such public way as laid out.

Wherefore, at a regularly convened meeting of the Board of Selectmen held on the 23rd day of May 2022, it was voted and ordered that the Board, acting under the authority conferred by the provisions of General Laws Chapter 40 §14, Chapter 79, and any other enabling authority, adopt this Order of Taking, whereby a permanent easement for public highway purposes, including the right to occupy, construct, reconstruct, repair, maintain and otherwise control said way, is taken in and over those lands lying within the boundaries of Oldham Circle, as so laid out (the "easement area"). The boundaries of said way and the corresponding easement area acquired hereby are as shown on the above-referenced plan, which is hereby adopted as a part of this Order and recorded herewith.

Trees, shrubs, and stone walls located within the above referenced easement area are also taken hereby, and said shrubs and stone walls may be relocated, as deemed necessary. Other structures so located are not taken and shall be removed or may be relocated whenever their removal or relocation shall be required for the purposes for which this easement is taken.

The Town does not hereby take any interest in existing easements, if any, affecting the above referenced parcels that do not interfere with the use of the premises for the purposes for which this easement is taken, and it does not take any structures located within such parcels pursuant to such existing easements, provided, however, such structures may be relocated.

Betterments are to be assessed under this Taking.

We determine that no damages are sustained by the persons whose property is taken by this Order, and we accordingly award no damages pursuant to the provisions of G.L. c.79 §6 to said persons.

The parcels of land, or portions thereof, lying within the above described boundaries of Oldham Circle and the above described easement area are, upon information and belief of the Town, owned by the owner(s) of record listed in the Schedule appended hereto.

IN WITNESS WHEREOF, the undersigned members of the Board of Selectmen have signed this Order this 23th day of May 2022.

The Town of Mashpee
Acting by and through its
Board of Selectmen

Andrew R. Gottlieb, Chair

David W. Weeden, Vice-Chair

John J. Cotton, Clerk

Thomas F. O'Hara

Carol A. Sherman

COMMONWEALTH OF MASSACHUSETTS

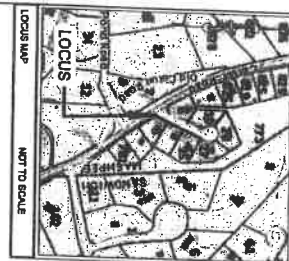
Barnstable County, ss. _____, 2022

Then personally appeared before me the above named _____

members of the Board of Selectmen and acknowledged the foregoing to be the free act and deed of the Town of Mashpee.

Notary Public

My commission expires: _____



PLAN EASEMENT TAKING FOR ROADWAY PURPOSES
UNDER ORDER OF TAKING ADOPTED ON
(DATE)

SELECTMEN OF MASHPEE

VOTED UNDER ARTICLE _____ OF THE TOWN MEETING

PLANNING BOARD APPROVAL UNDER THE
SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED _____ DATE SIGNED _____

MASHPEE PLANNING BOARD

NO DETERMINATION AS TO COMPLIANCE WITH ZONING
REQUIREMENTS HAS BEEN MADE OR INTERVIEW BY THIS
BOARD UNDER CHAPTER 41, SECTION 81L.

FOR REGISTRY USE ONLY

**CAPE & ISLANDS
ENGINEERING**

BLUMBERFIELD PARK
800 PALMOUTH ROAD SUITE 301C
MASHPEE, MA 02549
508.477.7272 PHONE
508.477.9072 FAX
www.CapeEng.com

CLERK OF THE TOWN OF MASHPEE
HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY
THE TOWN OF MASHPEE PLANNING BOARD HAS BEEN RECEIVED AND
RECORDED AT THIS OFFICE AND THAT NO APPEAL WAS RECEIVED
DURING THE PERIOD OF APPEAL. CERTIFIED AFTER SUCH RECEIPT AND
RECORDING OF SAID NOTICE.

MASHPEE TOWN CLERK DATE

GENERAL NOTES

THE INTENT OF THIS PLAN IS TO SUBMIT THE EASEMENT TAKING
UNDER ORDER OF TAKING TO THE TOWN OF MASHPEE
PLANNING BOARD FOR APPROVAL.

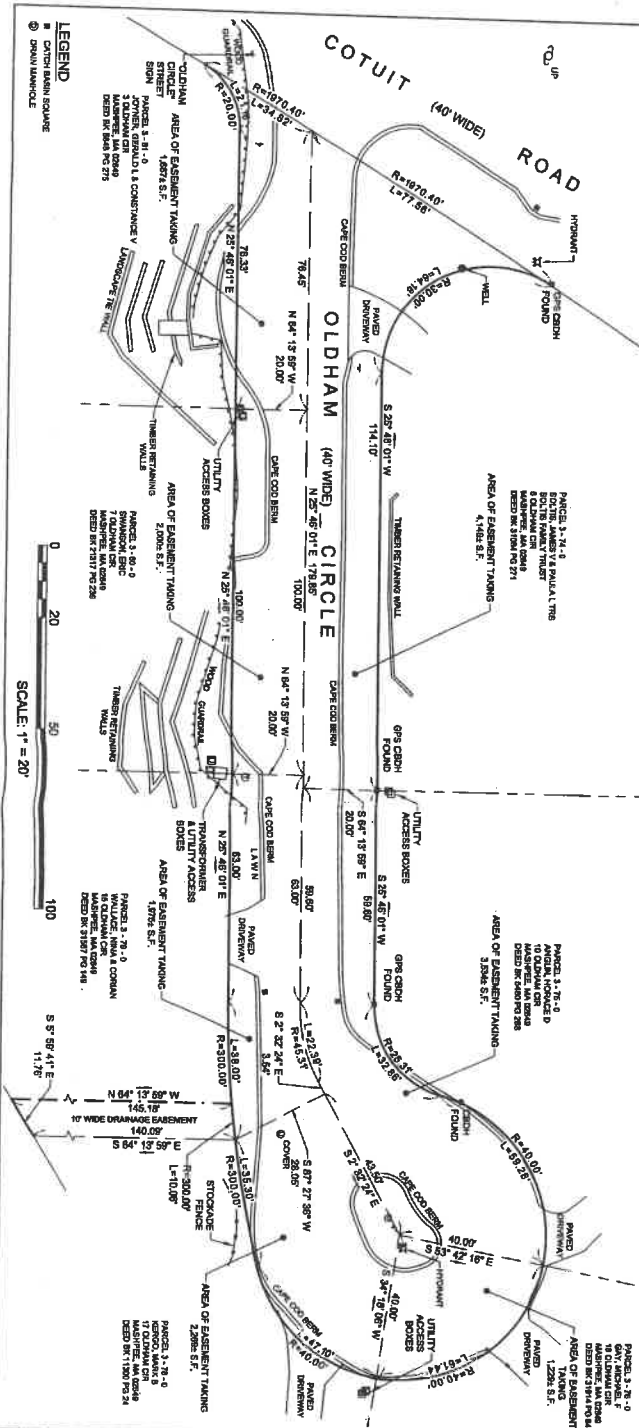
THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT
AVAILABLE RECORD INFORMATION.

LOCATIONS ARE BASED ON A 1"=100' HORIZONTAL SCALE
AND A 1"=40' VERTICAL SCALE. ELEVATIONS ARE IN FEET
COORDINATE SYSTEM DATUM AND 84. METRIC U.S. SURVEY FEET.

I HEREBY CERTIFY THAT THIS PLAN DOES COMPLY WITH THE
REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY
OF DEEDS.

MATTHEW C. COSTA P.L.S. DATE

MATTHEW C. COSTA P.L.S. DATE



Prepared For: **TOWN OF MASHPEE**
16 GREAT NECK ROAD NORTH
MASHPEE, MA 02549

Project: **OLDHAM CIRCLE**
IN
MASHPEE, MA 02549

Drawing Title: **ROAD TAKING PLAN**

Rev	Date	Description	By	Checked By
1	5/8/2021	ADD EXIST. RET. WALLS	JVB	JIC

Date: DECEMBER 20, 2020

OLDHAM CIRCLE**ESTIMATED BETTERMENT COST**

CONSTRUCTION	\$ 364,285.00
PROCESSING (\$5,000 ENGINEERING, \$150 RECORDING FEES)	\$ 5,150.00
SUBTOTAL	\$ 369,435.00
INTEREST (5%)	\$ 18,471.75
TOTAL	\$ 387,906.75
COST TO BE BORNE BY EACH OF 7 PROPERTY OWNERS	\$ 55,415.25

**Please be advised that this amount reflects the maximum allowable charge
by the Town of Mashpee for this Betterment**

Map/Parcel	Owner & Mailing Address	Certificate Book/Page	Lot/Plan	Betterment Assessment
3-81-3	JOYNER, GERALD L & JOYNER, CONSTANCE V	5648/275	L #17/P 286-40	\$55,415.25
3-74-0	SOLTIS, JAMES V & SOLTIS, PAULA L TRS SOLTIS FAMILY TR	31084/271	L #11/P 286-40	\$55,415.25
3-80-0	SWANSON, ERIC	21217/239	L #16/P 286-40	\$55,415.25
3-75-0	ANGLIN, HORACE D	5480/268	L #12/P 286-40	\$55,415.25
3-79-0	WALLACE, NINA & WALLACE, CORIAN	31587/149	L #15/P 286-40	\$55,415.25
3-78-0	KERGO, MARK B	11300/24	L #14/P 286-40	\$55,415.25
3-76-0	GAY, MICHAEL F	31914/84	L #13/P 286-40	\$55,415.25



Town of Mashpee

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

MEMORANDUM

Date: May 18, 2022

TO: Rodney Collins, Town Manager;
Chair Andrew Gottlieb and the Honorable Members of the Select Board

FROM: Dawn Thayer, Finance Director
Craig Mayen, Treasurer/Tax Collector
Joseph Gibbons, Director of Assessing

RE: Residential Exemption Implementation

The Finance Team is providing the attached documentation regarding the implementation of the Residential Exemption. The Board of Assessors will be meeting this evening to discuss this topic and we will communicate the results of that meeting with you. With the approval of funding through article 8 of the FY 2022 May Special Town Meeting, we are taking the initial steps to begin this preparation. We would like to request your review of these documents which include:

Residential Exemption Application

Letter to property owner

List of strengths/weaknesses associated with the implementation of this exemption

To assist with future financial calculations, we want to ask the Select Board what percentage exemption they would potentially support implementing.





Town of Mashpee

Office of Assessing

Hours: Mon. – Fri., 8:30am-4:30pm
Phone: (508) 539-1404
Fax: (508) 539-1142

Director of Assessing Joseph Gibbons, MAA

May 3, 2022

Dear Property Owner,

The Select Board is considering possibly implementing the Residential Real Estate exemption under Massachusetts General Law c.59 §5C for the first time in the Town of Mashpee. As an exploratory measure, the Board of Assessors is gathering data as to how many property owners might qualify. This data will be utilized to predetermine the effect of shifting the Real Estate tax burden to non-domiciliary property owners and domiciliary owners whose assessment value is above the break-even point. This analysis will also estimate how many taxpayers may benefit and by how much. The Select Board will utilize this information when making its decision later this year.

Every year, the Select Board has the option of enacting a residential exemption of up to 35% of the average total residential property value for those property owners who maintain their primary residence in Mashpee. Each qualified property would see the same adjustment to their assessment. That amount is recalculated every year. A qualifying property, in any one year, will have that year's exemption amount subtracted from the total taxable value before the net tax is calculated.

Annually, the Select Board votes on whether to have a residential exemption and the percentage. To qualify for the upcoming Fiscal Year 2023, the owner must have occupied the property as their primary residence / domicile as of January 1, 2022.

A primary residence (domicile) is defined as being owned and occupied year-round by the applicant and by filing federal/state tax returns showing the property as the domiciliary residence for the qualifying fiscal year. Our office will need a signed copy of the front page of the returns submitted with the application. Income data and social security numbers may be blacked out but the form *must* show the real estate address to which the application is made.

The Board of Assessors has sole authority to determine what other documentation is acceptable as proof of primary residence if no tax return has been filed for the required year. Once qualified, the certification is valid until the property is sold, the form of ownership changes (placed into a trust, for example), the domiciliary residence changes or the Select Board votes not to accept the Statute. Taxpayers receiving other exemptions (Veterans, Senior) typically continue to receive them.

If you qualify, please return the completed application with documentation by the deadline of xx/xx/22, so that the Select Board can utilize this data to make an informed decision.

Board of Assessors

FISCAL YEAR
2023

RESIDENTIAL EXEMPTION
THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF MASHPEE
NAME OF CITY OR TOWN

Do not write in this space.
Date application received: _____

APPLICATION FOR RESIDENTIAL EXEMPTION.

MUST BE FILED NO LATER THAN 3 MONTHS AFTER THE DATE THE ACTUAL TAX BILL IS ISSUED.

ALL TAXPAYER INFORMATION ON THIS FORM MUST BE COMPLETED IN FULL
AND REQUIRED DOCUMENTATION ATTACHED TO BE CONSIDERED FOR THE RESIDENTIAL EXEMPTION.
APPLICATIONS ARE FOR THE 2023 FISCAL YEAR BEGINNING JULY 1, 2022.

PARCEL ID# _____

The undersigned being aggrieved by the failure to receive a residential exemption on real estate situated at _____
for fiscal year 2023 hereby applies for such an exemption.

Number # _____ Street _____

STATEMENT OF FACTS

1) Name(s) of record owner(s) _____

2) Name of Applicant(s) _____

3) Social Security Number (optional) _____ Date Property Acquired: _____

4) Was this real estate owned and occupied by you as your principal residence (domicile) on January 1, 2022?: YES: _____ NO: _____

5) Please attach a copy of the Front Page of your 2020 Federal Income Tax Return Showing the Above Real Estate Address (required). Attach the copy, skip line 6 & go to line 7. If return shows a P.O. Box, attach a copy & 1 other piece of evidence listed in line 6. If you are not required to file a tax return due to low income, submit a short written explanation and at least 2 pieces of other evidence in line 6.

6) Other Evidence: Copy of Driver's License (both sides) ☐; Copy of 2020 Federal Tax Return (front page) ☐; Copy of Motor Vehicle Registration ☐; Copy of Gun Permit ☐; Copy of Other 2020 Federal Form showing address ☐

7) List the location and type of any other residential real estate owned by you:

8) Have you received or applied for a residential exemption in any other state, city or town for this fiscal year? YES: _____ NO: _____ If yes, where? _____

City/State _____

Signing this form under the penalties of perjury has the legal effect of swearing under oath to the truthfulness of the information contained herein. All items on this form must be completed as indicated. In addition to other sanctions provided by law, intentional misrepresentation of facts in this application may result in cancellation of this exemption and the subsequent issuance of an omitted bill for the exempted value involved for the current fiscal year.

SUBSCRIBED THIS _____ DAY OF _____, 20____ UNDER THE PENALTIES OF PERJURY

9) Signature of Applicant: _____

10) Mailing Address (if different than property location): _____

Email Address: _____ Phone Number: _____

Do not write below this line

GRANTED: _____ DENIED: _____ NO ACTION: _____

DATE: _____ CERTIFICATE #: _____ AMOUNT ABATED: _____

RESIDENTIAL EXEMPTION

Strengths:

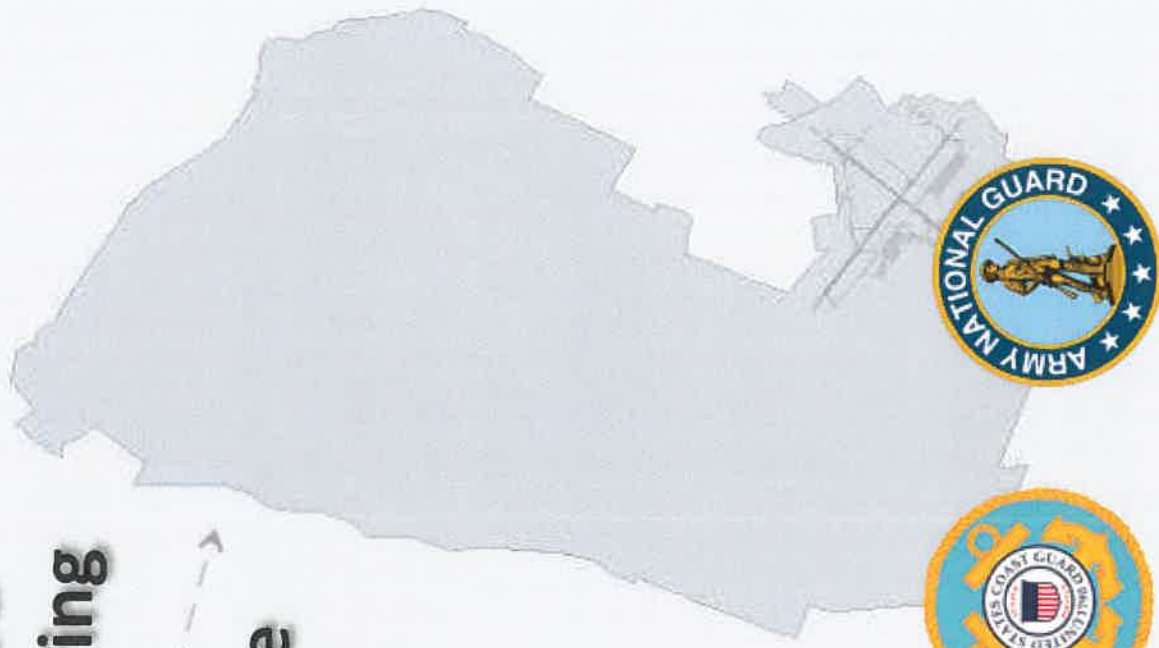
1. REVENUE NEUTRAL EFFECT ON TAX LEVY
2. YEAR-ROUND RESIDENTS WITH MODEST PROPERTIES WILL HAVE A LOWER TAX BILL

Weaknesses:

1. RESIDENTIAL LANDLORDS, INCLUDING MOBILE HOME PARKS, WILL PASS THEIR INCREASE ONTO TENANTS
2. COMMERCIAL/INDUSTRIAL/PERSONAL PROPERTY WILL HAVE A LOWER RATE THAN RESIDENTIAL
3. DEPARTMENT OF REVENUE (DOR) RECOMMENDS 70+% OF NON-DOMICILIARY RESIDENTAL OWNERS FOR RESIDENTIAL EXEMPTION TO BE IDEAL. MASHPEE HAS 43%
4. OPEN-SPACE PARCELS WILL SEE AN INCREASE IN TAXES DUE TO NON QUALIFICATION
5. SOME YEAR-ROUND RESIDENTS MAY LOSE SOME OF THEIR EXEMPTIONS
6. NON-DOMICILIARY OWNERS CURRENTLY DON'T USE THE SCHOOL SYSTEM WHICH ACCOUNTS FOR OVER 50% OF THE TAX LEVY
7. CREATES AN ADVERSERIAL RELATIONSHIP BETWEEN YEAR-ROUND RESIDENTS AND SEASONAL FOLKS.
8. POTENTIAL OVERLAY DEFICITS MAY ARISE IF THE COUNT IS UNDER-ESTIMATED
9. DELAYS IN TAX-RATE SETTING MAY ARISE IF OUR COUNT IS OVER-ESTIMATED OR A VIOLATION OF PROP 2 ½, WHICH COULD REQUIRE AN ADDITIONAL SPECIAL TOWN MEETING OR RAISING ADDITIONAL REVENUES TO SET THE TAX RATE
10. IF ACCEPTED, INCREASE OF WORKLOAD AND ADDITIONAL EMPLOYEES REQUIRED TO ADEQUETLY ADMINISTER THIS PROCESS.

Joint Base Cape Cod Commanders' Briefing

Town of Mashpee 23 May 2022



Joint Base Cape Cod

Military Organizations and Commanders



Massachusetts National Guard – JBCC Executive Director
Brig Gen (ret) Christopher Faux



Army National Guard – Camp Edwards
COL Matthew Porter



Air National Guard – 102^d Intelligence Wing
Col Sean Riley



Space Force – 6th Space Warning Squadron
Lt Col Timothy Sheehan

UNITED STATES
SPACE FORCE



Coast Guard

- Base Cape Cod: CAPT Sean Hannigan
- Air Station Cape Cod: CAPT Rob Potter



102d Intelligence Wing



Mission: To organize, administer, recruit, instruct & train ready personnel/equipment to meet federal or domestic tasking requirements for employed-in-place missions, expeditionary combat support or in response to state request for forces

Vision: To be recognized as the Air National Guard's premier Intelligence Wing, universally renowned and respected for performance and reputation.

102 ISRG



Reach-back
Exploitation &
Analysis

202 ISRG



Cyberspace Signals
Development

102 MDG



General Med Support
Field Medical For HRF

102 MSG



Civil Engineers
Communication
Personnel
Security
Logistics

253 CEIG



Cyber Engineering
and Installation



Wing Priorities

1

Transform into a sustainable "walking campus"

3

Establish the 102d IW as a Unit of Choice

2

Embrace an "Accelerate Change, or Lose" Mindset

4

Train & exercise for our home and away game

Nation's First



Resources, People & Mission



1

Resources

Facilities

- DFAC & Med Gp
- Rehab Existing Facilities



Land Divestment

- ANG Acreage: 3,618
- Goal: 650 Acres
- Connery Ave & Airfield
- Hangar 158 (NDAA)



Utilities

- Water and Wastewater
- Electric Grid
- Microgrid

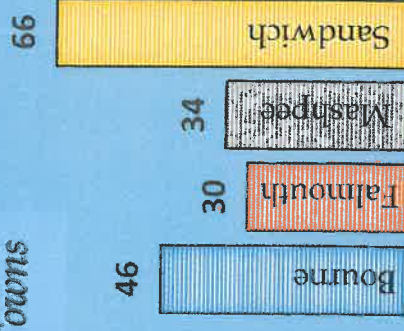


2

People & Mission

By the Numbers:

- 1,260 Airmen in 5 Groups
 - 420 Fulltime; 840 drill status guardsmen
- 227 Cape Codders
- 176 Surrounding Towns



Home & Away

- Employed-in-place ISR
- Base Operating Support
- Boston Marathon and Hospital Support
- Expeditionary Combat Support



Cape Cod Space Force Station

Home of the 6th Space Warning Squadron



North America's sole East Coast early warning radar

- Three missions: Missile Warning, Missile Defense, and Space Domain Awareness
- Track ~20 launches & provide 10M satellite observations per year
- 135 Military, Civilian, and Contractor members
- Bi-National (US & Canada) Active-Duty Squadron
- Part of Space Delta 4 located at Buckley AFB in CO
- Supported by Buckley Garrison and 66 Air Base Gp
- 24/7/365 critical national security mission since 1980



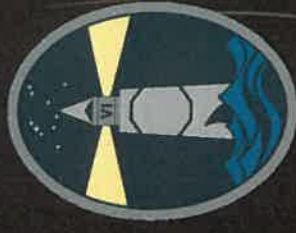
OUR CALL NOW GOES BEYOND BEING MERELY BER, INTEL AND SPACE TRATORS; WE ARE NOW CALLED UPON TO BE **SPACE WARFIGHTERS**





Cape Cod Space Force Station

Home of the 6th Space Warning Squadron



- Maintain \$4.1M operating budget
- Partnerships and Community Support
 - Reliant on JBCC facilities, housing, clinic, etc.
 - Support agreements with fire & law enforcement
 - Support to/from local clubs, businesses, schools, & charitable organizations
- Significant Milestones and Projects
 - Wind turbines offset electricity requirement
 - \$125M radar system upgrade





Homeland
Security



U.S. Coast Guard



Coast Guard Base Cape Cod and Coast Guard Air Station Cape Cod





Homeland
Security



U.S. Coast Guard



Air Station Cape Cod



- 176 active duty & civilian personnel
- 3 MH-60T, 3 HC-144A & 3 mission system pallets
- Only USCG aviation resource provider between New Jersey and Canadian Border
- Fixed-wing SAR/LE support to Great Lakes Region
- Auxiliary Air fleet of 40+ aircraft & 200+ members (largest in the CG)





Homeland
Security



U.S. Coast Guard

Air Station Cape Cod Major Events

- **Search and Rescue/MEDEVAC**
 - F/V ATLANTIC DESTINY: Joint U.S. & CAN, 31 saved
 - Hurricane Ida Response : 8 saved lives
 - Haiti Earthquake Response
 - Pre-Storm Warning and Post-Storm Assessment
 - Flights in response to storms, including Hurricane Henri (Aug '21)
- **Counter Drug and Migrant Interdiction Deployments to Caribbean**
 - \$18M narcotics seized
 - 24 Migrants interdicted and assisted
 - Nantucket seizure of 874 Fentanyl pills, 690 Methamphetamine Pills, hundreds of other illegal pills, and \$31,505 in cash (March '22).
- **Living Marine Resource Preservation Flights**
 - \$14B New England fishery





Homeland
Security



U.S. Coast Guard



Air Station Cape Cod

Operations

- **RECENT AWARDS**
 - 2022 Vertical Flight Society **CAPT William J. Kossler Award** (CGNR 6032 and CGNR 6039)
 - 2022 Helicopter Association **Pilot of the Year** Award (LCDR James Christy)
 - 2022 Helicopter Association International **Safety Award** (Safety Department)
 - 2022 Helicopter Association International Matthew S. Zuccaro **Land and LIVE Award** (AET2 Champagne)
 - 2021 Helicopter Association **Pilot of the Year** Award (LCDR Rob McCabe)
 - 2020 Coast Guard Aviation Association Commander Elmer Stone **Fixed Wing Rescue Award** (CGNR 2313)
 - 2020 NHA Aircrew & **Maintainer of the Year Awards**





Homeland
Security



U.S. Coast Guard



Base Cape Cod

Background

- Regional Support Base Established 2014
- BCC Tenant Commands
 - Air Station Cape Cod
 - Maritime Safety and Security Team
 - Port Security Unit 301
 - NE Regional Fisheries Training Center
 - FORCECOM Armory/Range
 - Marine Safety Detachment Cape Cod
- Regionally Supported Commands
 - Sector Southeastern New England
 - 8 Stations, 4 Patrol Boats, and others





Homeland
Security



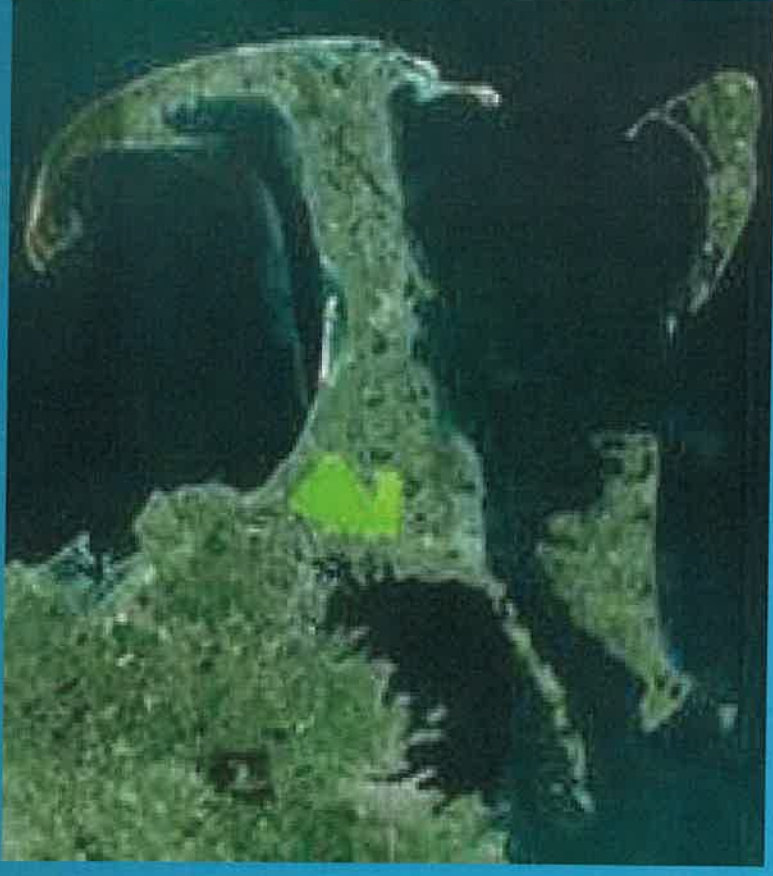
U.S. Coast Guard



Base Cape Cod

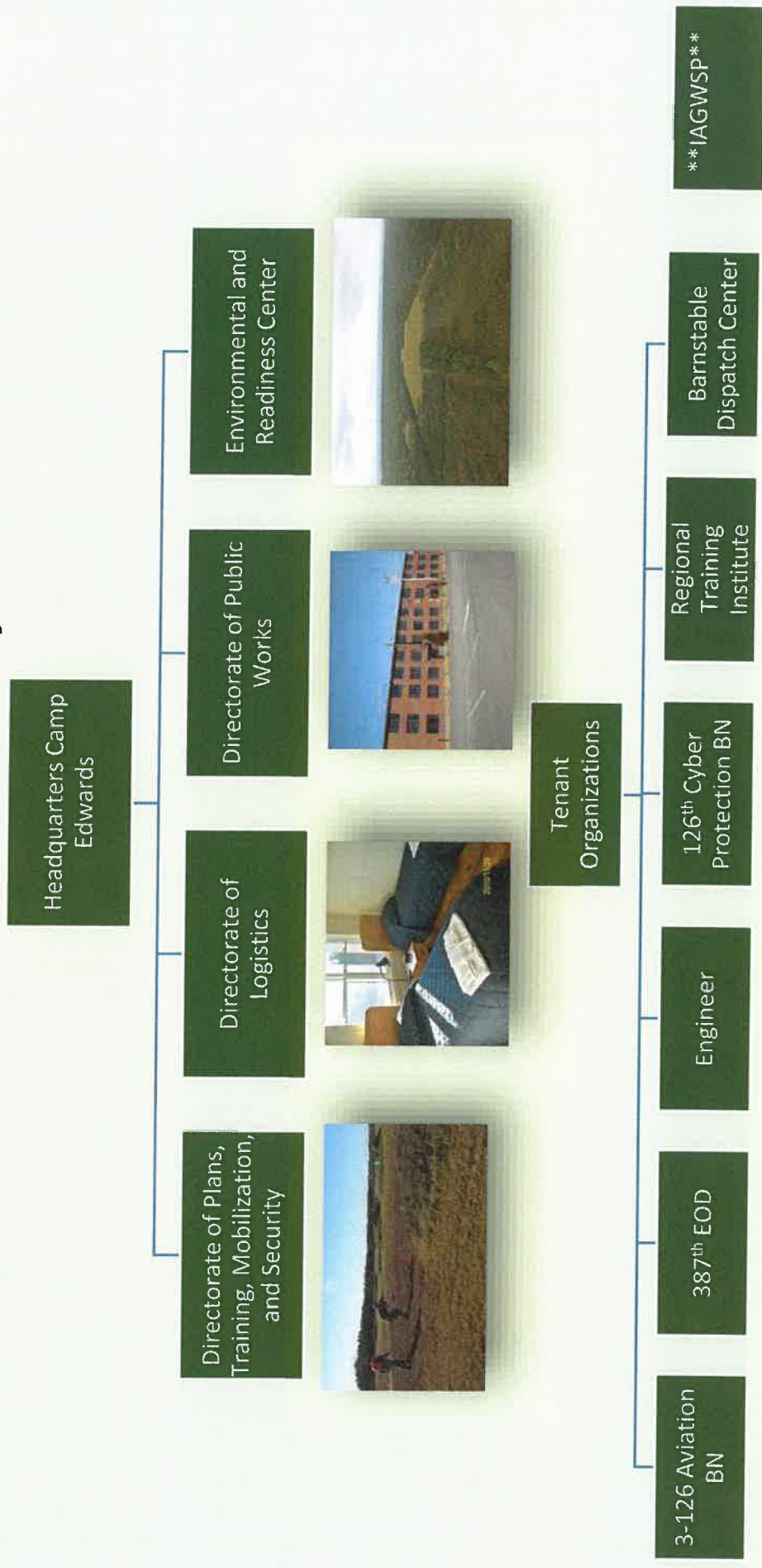
Services

- Comptroller/Base Operations
- Facilities Engineering
- Procurement and Contracting
- Health, Safety & Work-Life
- Electronics Support
- Personnel Services:
 - Housing (On-base and Off)
 - Morale, Wellness, & Recreation
 - Servicing Personnel Office
 - Admin



Camp Edwards Training Site

Camp Edwards-Garrison Training Site commands, operates, manages, and administers the use of garrison resources to provide year-round customer service through administrative, engineering, logistical, training and operational support to assigned, attached, transient, or tenant units and joint forces activities.



150 full-time personnel support the training mission of over 6,000 drill status guardsmen.



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED



Soldier Training 2021

TY 21 Camp Edwards supported 186 Range Days across Ranges (Sierra, Echo, India, and Lima):

- 7,716 man days for military personnel
- 214 man days for civilian personnel (Law Enforcement)

Training Area Use:

- 66,374 man days of military use
- 502 man days of civilian use

Training Support Areas Use:

- 94,055 man days of military use
- 5,305 man days of civilian use

Operation Viking:

TY2021: 412 Civil Affairs Battalion conducting airborne operations at the Coast Guard air field; weapons qualification and military maneuvers in the N. Training Area. Scheduled again July 2022.

TY 2021: State of the Reservation Report:

www.massnationalguard.org/ERC/publications.htm

TRAINING ACTIVITIES ON BASE

- Indoor simulated weapons training
- Rappel Towers
- Obstacle Course
- Leadership Reaction Course
- Call for Fire Trainer
- Virtual Convoy Operations Trainer
- Battle Simulation Center
- Tactical Training Base (TTB) Kelley
- Military Operations in Urban Terrain Training Site
- Reg. Training Institute: Officer Candidate School
- IED Simulators
- Emergency Driver Training
- Air Assault and Pathfinder courses

Northern Training Area (15,000):

- maneuvering and patrol training areas
- small arms ranges
- helicopter landing zones
- nuclear, biological, chemical training bunkers
- extensive road network-convoy & driver training



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED

Natural Resource Management

Wide variety of plant and wildlife surveys: box turtles, birds, moths, and rare plants.

Surveys show strong wildlife and habitat integrity, including species of greatest conservation need, i.e. whip-poor-wills and rare bees.

TY 2021 State of the Reservation Report

- Comprehensive detail -survey results & trends analysis.
- www.massnationalguard.org/ERC/publications.htm

Community Engagement:
Grassland Bird Tours; Training Area Public Tours; collaboration-i.e. MA Butterfly Club.



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED

Wildland Fire Management



Unique landscape within Camp Edwards is ***disturbance dependent***.

Prescribed burns:

- *promote native pine barrens habitat*
- *reduce wildland fuels*
- *provide wildland fire training opportunities for fire fighters*

TY 2021: 115 acres (low-pandemic/weather).
TY 2022: Target of 25 days/625 acres.

Mechanical restoration (forestry):

TY2021: 205 acres, TY2022: about 90 acres.



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED

MPMG Range Update

Regulatory Milestones:

- MA Endangered Species Act, Conservation & Management Permit: SEP 2020
- MA Environmental Policy Act, Certificate: JUL 2020
- National Environmental Policy Act, Finding of No Significant Impact: April 2021
- Detailed information on the Certificate, Permit, and FSNi, available online: <https://www.massnationalguard.org/ERC/publications.htm>

Currently:

- EPA completing Sole Source Aquifer review
- EPA will hold a 30-day comment period and public hearing
- Spring 2022 completion date, pushed out further 2022
- MA Army National Guard actively working with EPA

Environmental Management Commission:

- 19 May 2022: Science Advisory Council, 6pm
- 24 May 2022: Community Advisory Council, 6pm

TBD: EMC Meeting



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED

Community Concerns

- Ground Water
- Animal Habitat
- Noise
- Carbon Sequestration
- Smoke
- Traffic
- Safety
- UXO



Community Outreach

Public Tours:

- 2021: 12 tours b/w Aug-Dec.
- 2022: Tours offered monthly, upcoming: July 15, Aug 20, Sep 16, Oct 15.
- Grassland Bird Tours, still open: May 21, May 28, June 1.

Presentations: Rotary Clubs; Senior Centers, Kiwanis, Chambers, Women's Clubs, Newcomers Clubs

Kathleen Kolva
Community Relations
339-202-9307
Kathleen.a.kolva.civ@army.mil



HEADQUARTERS, ARMY NATIONAL GUARD TRAINING SITE, CAMP EDWARDS

UNCLASSIFIED

**AGREEMENT BETWEEN
THE TOWN OF MASHPEE
AND**

MASHPEE COMMUNITY MEDIA CENTER, INC.

This Agreement is made this ____ day of _____, 2022 by and between the Board of Selectmen of the Town of Mashpee, Massachusetts (hereinafter) referred to as the "Town" and the Board of Directors of Mashpee Community Media Center, Inc. (hereinafter referred to as "the Access Corporation" or "Mashpee TV") a non-profit tax-exempt corporation duly established under the laws of the Commonwealth of Massachusetts.

WHEREAS, the Board of Selectmen, as statutory Issuing Authority, granted a Cable Television Renewal License to Comcast Cable Communications Management, LLC ("Comcast"), as Licensee, on May 1, 2022; and

WHEREAS, the Board of Selectmen of the Town and the Board of Directors of the Access Corporation wish to reach agreement regarding the production and cablecasting of Public, Education and Government Access programming in Mashpee.

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

SECTION 1 - DEFINITIONS

For the purpose of this Agreement, the following words, terms, phrases and their derivations shall have the meanings given herein, unless context clearly requires a different meaning. When not inconsistent with the context, the masculine pronoun includes the feminine pronoun, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. Access:

The right or ability of any Mashpee resident and/or any persons affiliated with a Mashpee institution to use designated Public, Education and Government ("PEG") facilities, equipment and or PEG channels on the Cable television System, subject to the conditions and procedures established for such use.

2. Access Channel:

A video channel which Comcast owns and shall make available to the Town of Mashpee and/or Access users, without charge, for the purpose of transmitting non-commercial programming by members of the public, Town departments and agencies, public schools, educational, institutional and similar organizations.

3. Access Corporation:

The entity, as designated from time to time by the Board of Selectmen, for the purpose of operating and managing the use of PEG Access funding, equipment, channel capacity, facilities, training and programming for Mashpee Subscribers.

4. Gross Annual Revenues:

All revenues derived by the Licensee and/ or its Affiliates, calculated in accordance with Generally Accepted Accounting Principles ("GAAP") from the operation of the Cable Television System for the provision of Cable Service(s) over the Cable Television System including, without limitation: the distribution of any Service over the Cable System; Basic Service monthly fees and all other Service fees; any and all Cable Service fees and/or charges received from Subscribers; installation, reconnection, downgrade, upgrade and any similar fees; all digital Cable Service revenues; interest collected on subscriber fees and/or charges; fees paid on all subscriber fees ("Fee-on-Fee"); all Commercial Subscriber revenues; all Pay Cable, Pay-Per-View revenues; any other services now or in the future deemed to be lawful for purposes of computing Gross Annual Revenues by a court or forum of appropriate jurisdiction, video-on-demand Cable Services; fees paid for channels designated for commercial use; home-shopping revenues; converter, remote control and other cable-related equipment rentals and/or leases and/or sales; and advertising revenues. In the event that an Affiliate and/or any other person is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by an Affiliate or such other Person for said Affiliate's or other person's use of the Cable System for the carriage of advertising. Gross Annual Revenues shall also include the gross revenue of any other person which is received directly or indirectly from or in connection with the operation of the Cable System to the extent that said revenue is received, through a means which has the effect of avoiding payment of License Fees to the Town that would otherwise be paid herein. It is the intention of the parties hereto that Gross Annual Revenues shall only include such revenue of such Affiliates and/or Persons relating to Signal carriage over the Cable System and not the gross revenues of any such Affiliate(s) and or Person(s) itself, where unrelated to such Signal carriage. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with GAAP; provided, however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in Gross Annual Revenues in the period so collected.

5. Issuing Authority:

The Board of Selectmen of the Town of Mashpee, Massachusetts.

6. Origination Capability:

An activated cable and connection to an Upstream Channel, allowing a User(s) to transmit a Signal(s) upstream to a designated location.

7. PEG:

The acronym for "public, education and government," used in conjunction with Access Channels, support and equipment/facilities.

8. PEG Access Channels:

Any channel(s) made available for the presentation of PEG Access programming.

9. Subscriber:

Any person, firm, corporation or other entity who of which elects to subscribe to, for any purpose, a Service provided by the Licensee by means of, or in connection with, the Cable Television System.

10. Town:

The Town of Mashpee, Massachusetts, acting by and through its Board of Selectmen.

11. Upstream Channel: a channel over which Signals travel from an authorized location to the Cable System Headend.

SECTION 2 - TERM

The Term of the Agreement shall be for three (3) years commencing _____, 2022 and expiring _____, 2025.

SECTION 3 - DESIGNATION

Subject to the requirements of Sections 4 and 5 below, the Board of Selectmen hereby designates the Access Corporation as the PEG Access Corporation to provide services to PEG Access Users and PEG Access programming to Mashpee Subscribers.

SECTION 4 - PERIODIC REPORTING

1. On an annual basis, and within thirty (30) days of filing its Annual Report to the Massachusetts Attorney General's office, the Access Corporation shall provide a written report to the Board of Selectmen, which report shall include the following:

(a) A copy of the Access Corporation's most recent Annual Report (Form PC) filed with the Attorney General's Office;

(b) Year-end financial statements. An independent certified public accountant agreed upon by the parties shall conduct, according to the standards of the American institute of Certified Public Accountants, a review of the yearend financial statements for years one and two of the contract and, in year three, an audit of the year-end financial statements may be conducted if so requested by the Town.

- (c) Previous year's budget prepared showing all expenses in a level of detail equal to that of Town's "Budget Detail" reports to include item specific notes detailing the expenditure, prior year expense amount and percent change from prior year. This level of detail will be provided for all expense lines with the exception of salary which will be provided in summary form, Salary details are available in the annual reporting documents provided to the Town within Mashpee TV's tax filings;
- (d) Upcoming year's budget, broken down by line item;
- (e) Three year Budget Plan including staffing and equipment needs;
- (f) Hours of programming and cablecast by categories of public, education, and *Government* programming;
- (g) Notable events, actions and programs;
- (h) Training classes offered and attendance thereto;
- (i) The Access Corporation's Policies and procedures, with any changes thereto from the previous year highlighted; and
- (j) Any other documentation and or items mutually agreed upon by the parties hereto.

2. Between fifteen (15) and forty-five (45) days after the Board of Selectmen has received the Access Corporation's Report, the Access Corporation shall meet with the Board of Selectmen, at a regularly scheduled meeting of the Board, for the purpose of reviewing the Access Corporation's operations, budget, programming and items contained in the report submitted to the Board of Selectmen for the previous year.

3. Within thirty (30) days of filing, the Access Corporation shall provide a copy to the Board of Selectmen of all filings to the State and Federal Government, including, but not limited to, Change of Directors and/or Officers; instruments of restatement of articles of incorporation; by laws; dissolution; and any other corporate filings.

4. The number of days for reporting relative to the items above may be extended upon the agreement of both parties.

5. The Board of Selectmen shall submit in writing any questions, issues, and/or concerns with financial results and/or operational performance 14 days prior to the meeting outlined in section 4-2 above. The Access Corporation shall cooperate fully and in good faith in answering questions from the Board of Selectmen regarding reporting required under this section.

6. Mashpee TV agrees to provide quarterly updates to the Board of Selectmen at regularly scheduled Board of Selectmen meetings, one of which will be the appearance outlined in section 4-2 above. The Board of Selectmen shall submit in writing any questions, issues, and/or concerns with financial results and/or operational performance 14 days prior to these quarterly meetings.

SECTION 5 - ANNUAL HEARING

1. On an annual basis, and at least thirty (30) days after the Board of Selectmen has received the Access Corporation's Annual Report, subject to Section 4 above, the Access Corporation shall meet with the Board of Selectmen, at a regularly scheduled meeting, for the purpose of reviewing the Access Corporation's operations, budget and programming for the previous year.
2. The Board of Selectmen shall submit in writing any questions, issues, and/or concerns with financial results and/or operational performance 14 days prior to the meeting outlined in section 5-1 above. The Access Corporation shall provide such information as is reasonably requested by the Board of Selectmen.

SECTION 6 - ACCESS CORPORATION OBLIGATIONS

The Access Corporation shall provide PEG Access programming and services to PEG Access Users, Subscribers and the Town as follows:

1. Schedule, operate and program the PEG Access Channels provide in accordance with Section 7 below;
2. Manage annual funding, pursuant to Section 8 below;
3. Purchase and/or lease equipment, with the funds and equipment allocated for such purposes in Sections 9 and 10 below;
4. Operate and maintain a PEG Access studio in the Town of Mashpee for PEG Access Subscribers and other users;
5. Conduct periodic training programs for Mashpee residents and members of Mashpee-based organizations in the skills necessary to produce PEG Access programming;
6. Provide access to production and post-production equipment and facilities, and technical assistance, to PEG Access users, in accordance with the Access Corporation's Policies and procedures;
7. Establish rules, procedures, and guidelines for the use of the PEG Access Channels;
8. Engage in publicity, fund-raising, outreach, referral, and other activities to support PEG Access programming;
9. Provide coverage for Town board meetings including the Board of Selectmen, Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Sewer Commission and Finance Committee. This shall include Annual and Special Town Meetings, local elections, and major Town Events.

Mashpee TV shall ensure adequate staffing and scheduling for delivery of said meetings and/or events. The Town shall provide one week of notice to Mashpee TV when requesting coverage of an event, Less notice is allowable in emergency situations which will be determined by the Town Manager. Mashpee TV shall make every effort to support these emergency situations to the best of its ability pending scheduled programming and available resources.

10. Accomplish such other tasks relating to the operation, scheduling and/or management of the PEG Access Channel, facilities and equipment as Access Corporation and the Town may consider appropriate and necessary.

SECTION 7- PEG ACCESS CHANNELS

1. The Access Corporation shall have the responsibility for managing, scheduling, operating and programming four (4) dedicated Downstream PEG Access Channels on the Cable System.

2. The Access Corporation shall provide a programming schedule for the PEG Access Channels to the Office of the Board of Selectmen by making a link to the Mashpee TV online schedule available to the Town to post on the Town website. This will ensure timely notification of the Mashpee TV programming schedule.

SECTION 8 - ANNUAL FUNDING FOR PEG ACCESS

1. In order to fulfill its obligations pursuant to Section 6 supra, the Access Corporation shall receive from the Town of Mashpee annual support from funding the Town receives from Comcast for PEG Access purposes equal to four percent (4%) of Gross Annual Revenues from the Mashpee Cable System.

2. Payments to the Access Corporation from the Town of Mashpee shall be made within thirty (30) days of the Board of Selectmen's receipt of the funding from Comcast.

SECTION 9 - CAPITAL-EQUIPMENT FUNDING FOR PEG ACCESS

In order to fulfill its obligations pursuant to Section 6, the Access Corporation shall receive, from the Board of Selectmen, funding received from Comcast for PEG Access equipment/facilities purposes in the amount of Sixty-Five Thousand Dollars (\$65,000.00) per year.

SECTION 10- OWNERSHIP AND CONTROL

1. To secure all of its obligations under this Agreement, the Access Corporation hereby grants to the Town, a security interest in all of the assets and interests currently owned or hereafter acquired by the Access Corporation through the provisions provided in Sections 8 and 9 above, and the proceeds thereof, including but not limited to, deposit accounts and inventory, and all equipment and fixtures, that are or were acquired with funds provided by or through the Town. The Access Corporation agrees to take all steps reasonably requested by the Board of Selectmen to perfect and enforce the Town's security interest, including the execution and processing of financing/financial statements and continuation statements under the Massachusetts Uniform Commercial Code. The Access Corporation shall also notify any institution with which it now or hereafter maintains any deposit account of the existence of the Town's security interest in the account.

2. All such assets and interests shall at all times remain under the exclusive control of the Access Corporation. The Access Corporation shall have the right to determine appropriate rules, procedures guidelines for the use of said equipment and to amend such rules, procedures and guidelines from time to time; provided, however, that the Access Corporation shall provide the Board of Selectmen with a copy of such rules, procedures and guidelines and any amendments thereto. In the event of dissolution of the Access Corporation, all such assets and interests referenced in paragraph (A) above shall become the property of the Town and/or its designee(s).

3. Upon the written request of the Access Corporation, and if judged to be reasonable and appropriate by the Board of Selectmen, the Selectmen may agree to subordinate the Town's interest to finance the purchase of equipment or property. Such subordination shall only be with respect to the specific equipment or property that the Access Corporation might wish to finance,

SECTION 11 - PEG ACCESS PROGRAMMING

In programming the PEG Access Channels, the Access Corporation shall comply with all Federal and State laws and regulations at all times during the term of this Agreement.

SECTION 12 - THE ACCESS CORPORATION BOARD OF DIRECTORS

The Board of Selectmen shall have the right to appoint and designate, at its sole discretion, one (1) person, who will serve on the Access Corporation's Executive Board throughout the term of this Agreement. It is understood that the Board of Selectmen's appointee may be excluded from discussions regarding contract negotiations with the Town.

SECTION 13 - INDEMNIFICATION

The Access Corporation shall, at its sole cost and expense, and in its rules for PEG Access use, require that every PEG Access User indemnify and hold harmless the Board of Selectmen, the Town, its officials, boards and employees against any and all claims arising out of any use of the PEG Access studio and/or due to any programming cablecast over the PEG Access Channels including, but not limited to, libel, slander, invasion of privacy or publicity rights, non-compliance with applicable rules, regulations and/or laws and/or authorized use of copyrighted material(s).

SECTION 14 - INSURANCE

1. The Access Corporation shall carry insurance indemnifying the Board of Selectmen, the Town and itself from and against all claims for injury or damage to persons or property caused by the use of the PEG Access studio and/or any PEG Access equipment and shall name the Town as an additional insured party. Such insurance shall not be less than One Million dollars (\$1,000,000.00) for bodily injury or death to any one person or property damage resulting from any one occurrence and Three Million dollars (\$3,000,000) for such coverage in the aggregate.

2. All Insurance shall be with responsible companies qualified to do business in Massachusetts. It is also understood and agreed that upon issuance of such insurance policy, a complete certified copy shall be given to the Town for its review and records, No insurance certificates shall be cancelled without a minimum of thirty (30) days prior written notice to the Town.

3. The Access Corporation shall insure all PEG Access equipment for theft, loss and damage.

SECTION 15 - ASSIGNMENT

The Access Corporation shall have no right whatsoever to assign or sublet its rights regarding the PEG Access studio, PEG Access equipment, annual funding and/or PEG Access capital funding under this Agreement without the advance, express, written consent of the Board of Selectmen.

SECTION 16- TERMINATION/DISSOLUTION OF THE ACCESS CORPORATION

1. The Board of Selectmen may terminate this Agreement for material breach of this Agreement by the Access Corporation; provided, however, that the Board of Selectmen shall give the Access Corporation (i) advance, written notice specifying, in reasonable detail, such breach and (ii) sixty (60) days from the date of such written notice to cure any such breach. The result of such termination by the Board of Selectmen shall be that the Access Corporation shall no longer be the designated Access Corporation.

2. The Board of Selectmen may terminate this Agreement in the event that the Access Corporation engages in malfeasance, misfeasance or misappropriation or misuse of funds, or the Access Corporation fails to obtain or loses, once attained, its Federal 501(C)(3) status, or the Access Corporation fails to maintain a status of a Corporation in Good Standing with the Commonwealth of Massachusetts or the U.S. Internal Revenue Service:

3. In the event that the Access Corporation is dissolved during the term of this Agreement, and/or the Board of Selectmen terminates this Agreement with the Access Corporation pursuant to paragraph (1) and/or (2) above, the Board of Selectmen shall have the absolute right to designate another entity, including the Town itself, to provide PEG Access Programming in the Town. Any such successor PEG Access organization shall then assume all of the benefits and obligations contained herein, and all then-existing deposit accounts, inventory and equipment owned by the Access Corporation and/or the Town having been purchased with funds provided pursuant to this Agreement, shall become the property of the Town and/or transferred to such successor organization, as directed by the Board of Selectmen in writing.

SECTION 17- NONDISCRIMINATION

The Access Corporation shall not discriminate against any person in any of its PEG Access activities on the basis of race, color, creed, religion, ancestry, national origin, geographic location, sex, sexual orientation, disability, age, marital status or status with regard to public assistance. The Access Corporation shall be subject to all other requirements of Federal and State laws or regulations relating to nondiscrimination, throughout the term of this Agreement.

SECTION 18 - NOTICE

1. Every notice to be served upon the Town shall be delivered, or sent by certified mail, to the Board of Selectmen, Town of Mashpee, Mashpee Town Hall, 16 Great Neck Road North, Mashpee, Massachusetts 02649, or such other address as the Board of Selectmen may specify in writing to the Access Corporation.

2. Every notice to be served upon the Access Corporation shall be delivered, or sent by certified mail, to the Board of Directors of the Access Corporation at such address as the Access Corporation shall specify in writing to the Town.

3. Whenever notice of any public hearing relating to the Mashpee Cable System is required by law, regulation, the Renewal License, or upon request of the Board of Selectmen, the Access Corporation shall identify such hearing(s) by periodic announcement on a PEG Access Channel(s). It shall be the Town's responsibility to provide the Access Corporation any such notice in a timely manner.

SECTION 19 - SEPARABILITY

If any section, paragraph, term, or provision of this Agreement is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any State or Federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph; term or provision hereof, all of which shall remain in full force and effect for the term of this Agreement.

SECTION 20 - ENTIRE AND COMPLETE AGREEMENT

This Agreement constitutes the entire and complete Agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements or understandings, including prior agreement(s) between the Board of Selectmen and the Access Corporation, if any. This Agreement can be amended only by a written agreement between and signed by the parties.

In Witness Whereof, this Agreement is hereby agreed to by the Board of Selectmen of the Town of Mashpee and the Board of Directors of Mashpee Community Media Center, Inc., and the parties have hereunto set their hands this ____day of _____2022

The Town of Mashpee,

By: Its Board of Selectmen,

Mashpee Community Media Center, Inc.,

By: _____
President, duly authorized

**Town of Mashpee
Select Board**

Policy No: 081

Public Participation at Public Meetings

I. INTRODUCTION

The Mashpee Select Board welcomes everyone to its meetings and meetings of all other public Town boards, committees and commissions. All regular and special meetings of boards, committees and commissions shall be open to the public and shall conform at all times to the Open Meeting Law of the Commonwealth of Massachusetts. (See Chapter 30A, Section 20 of Massachusetts General Laws) and Town General Bylaw Chapter 7 (Public Records and Open Meetings). The public shall be precluded from attending an executive session meeting of a public body for a valid reason pursuant to MGL Chapter 30A, Section 21. (Meeting of public body in executive session). All comments made by the public during meetings shall be in accordance with this Policy and all speakers are encouraged to be civil and respectful.

II. AUTHORITY OF CHAIR

No person shall address a meeting of a public body without permission of the Chair (presiding official), and all persons shall, at the request of the Chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If a person: 1) Speaks out of order, 2) Engages in other disorderly or disruptive conduct during a meeting, 3) Attempts to engage in dialogue regarding pending litigation or other subject matter otherwise subject to executive session privilege, or 4) Attempts to address a matter that is not within the public body's scope of authority or jurisdiction, the Chair shall have the right to rule said person out of order, and, after clear warning from the Chair, the right to order the person to cease and desist such conduct. If, notwithstanding such order, a person continues to disrupt the proceedings, the Chair may order the person to withdraw from the meeting, and if the person does not withdraw, the Chair may authorize a constable or other duly authorized officer to remove the person from the meeting. (See Massachusetts General Law Chapter 30A, Section 20, sub-section (g)). Notwithstanding the limitations outlined within this section, citizens may offer petitions, presentations, criticism of a policy or practice, or reference any matter of public interest without being considered "out of order", consistent with constitutional free speech principles and in due recognition of the principle that a public body cannot prevent all speech at a public meeting that may be upsetting and/or offensive to others.

III. PUBLIC HEARING COMMENTS

If a public hearing is posted within a public meeting, input from the public shall be permitted on the subject matter of the public hearing when the Chair invites public comment on such agenda item. Any person requesting to make a comment should identify themselves and state their address for the record of the proceedings.

IV. PUBLIC COMMENTS ON AGENDA ITEMS

If the Chair decides to allow public comment on a specific agenda item, other than comment from a person with a particular interest in the said agenda item, the comment time for each such person shall generally be limited to three (3) minutes or such duration deemed appropriate by the Chair. Any person requesting to make a comment should identify themselves and state their address for the record. Large groups addressing the same topic and offering similar sentiments are encouraged, but not required, to consolidate their remarks for meeting efficiency purposes.

V. PUBLIC COMMENT SEGMENTS OF MEETINGS

It is the policy of the Select Board to facilitate and encourage public engagement in Town matters of general public interest. To that end the Board will routinely provide a public comment opportunity at its meetings. Public comment shall be subject to the Chair's authority to maintain good order of the meeting and to ensure that comments can be made in an open and welcoming atmosphere.

Public comment periods provide an opportunity to address matters of public concern to the Board for future Board action or response. Public comment time is intended to be a time to address matters of broad public interest, to raise an individual concern and to address matters of policy and is not intended to be an opportunity attack or denigrate others. To that end, speakers are asked to be civil and respectful. Should a member of the public have issue with an individual Board member, town employee or other person it is recommended that such concern be expressed and presented to the Board in writing and the matter will, as appropriate and warranted, be investigated and addressed at a future meeting.

It is the policy of the Board that the Chair may set standards for the conduct of public comment segments of meetings as follows:

1. Set reasonable time limits on individual comments at the start of the public comment period.
2. Ask all speakers to sign up in advance of the commencement of the comment period.
3. Recognize speakers prior to anyone addressing the Board.
4. Direct all speakers to address the Board from the lectern or table facing the Board unless any speaker requires a special accommodation to speak from another location.
5. Rule any speaker out of order for violating the spirit and intent of this Policy or violating standards of decorum.
6. Suspend or adjourn the meeting should a speaker fail, after appropriate warning, to adhere to directions from the Chair.
7. Take any other action needed to maintain good order and allow the business before the Board to be conducted without unreasonable disruption or delay.

If the posted agenda for a public meeting includes a "public comment" item, input from the public shall be permitted when the Chair acknowledges said item on the agenda. Members of the public shall sign up or request to speak at the time designated by the Chair. Comments from the public shall generally be limited to three (3) minutes for each individual. Any person requesting to make a comment should identify themselves and state their address for the record. Public comments may address topics on the agenda or items within the scope of the public body's authority and responsibility. Large groups addressing the same topic are encouraged to consolidate their remarks.

VI. RESPONSE TO PUBLIC COMMENTS

Upon closing of a public hearing, further public comments on the subject matter of the hearing shall not be heard. If public comments are allowed by the Chair with respect to a posted agenda item, further discussion may occur. If an individual makes comments during the "public comment" segment of a meeting, the public body will generally not discuss or respond to such comments, except under extenuating circumstances and only if the Chair permits. General public comment segments of public meetings are not intended to initiate discussion, debate, or dialogue between and among the public body and an individual on any matter which is not duly posted on the meeting agenda, rather, they are intended to provide citizens with an opportunity to express a statement or opinion relating to the business of the public body.

VII. REASONABLE ACCOMMODATIONS

Any person who wishes to make a public comment before any board, committee or commission and requires accommodations on the basis of a speech-related disability or who requires language interpretation services may be allotted a total of five minutes to present their comments. Speakers should notify the board, committee or commission forty-eight (48) hours in advance by telephone if such arrangements need to be made.

*Adopted by the
Mashpee Board of Selectmen
September 23, 2019
Revised May 23, 2022*